

Also, resolution of the Board of Trade of Baltimore, relative to Senate bill 1261—to the Committee on the Judiciary.

Also, resolution of Wilson Post, No. 1, Grand Army of the Republic, Department of Maryland, in favor of a service-pension law—to the Committee on Invalid Pensions.

By Mr. WADSWORTH: Petition of R. E. Fuller and others, of Waterport, N. Y.; L. M. Haines and others, of Barre, N. Y.; E. A. Capen and others, of North Tonawanda, N. Y., and James Walcott and others, of Medina, N. Y., for the passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. WANGER: Petition of Thomas Callaghan and others, of Cheltenham, Pa., in favor of bill H. R. 62, providing for the erection of a monument to the memory of Commodore John Barry—to the Committee on the Library.

By Mr. WILLIAMS of Illinois: Resolutions of George W. Cain Post, No. 771, of Carriers Mills; Martin Baker Post, No. 245, of Jeffersonville, and W. W. Burnett Post, No. 527, of Eldorado, Ill., Grand Army of the Republic, in favor of a service-pension law—to the Committee on Invalid Pensions.

Also, petition to accompany bill for relief of Michael Fitzgerald—to the Committee on Military Affairs.

Also, resolutions of the city board of Grayville, Ill., for improvement of Wabash River—to the Committee on Rivers and Harbors.

SENATE.

FRIDAY, January 22, 1904.

Prayer by the Chaplain, Rev. EDWARD EVERETT HALE, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BURROWS, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved.

SITES FOR PUBLIC BUILDINGS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a list of certain cases in which he has been unable to purchase suitable sites for public buildings within the amount appropriated; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

JOSEPH TAGG.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Joseph Tagg v. The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the joint resolution (S. R. 32) to fill the vacancies in the Board of Regents of the Smithsonian Institution.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President pro tempore:

A bill (S. 465) to amend an act entitled "An act to permit the Pintch Compressing Company to lay pipes in certain streets in the city of Washington," approved May 19, 1896;

A bill (S. 652) making Chester, Pa., a support of entry;

A bill (S. 1496) supplemental to the act of February 9, 1821, incorporating the Columbian College, in the District of Columbia, and the acts amendatory thereof; and

A joint resolution (S. R. 31) authorizing the erection and maintenance of a monument in memory of the late President Benjamin Harrison upon land owned by the United States in the city of Indianapolis, State of Indiana.

CREDENTIALS.

Mr. FORAKER presented the credentials of MARCUS A. HANNA, chosen by the legislature of the State of Ohio a Senator from that State for the term of six years beginning March 4, 1905; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. BURROWS presented petitions of A. Stewart Post, No. 259; of Saginaw Post, No. 38, and of Phil McKernan Post, No. 53, all of the Department of Michigan, Grand Army of the Republic, in the State of Michigan, praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

Mr. PLATT of New York presented petitions of the congregation of the First Presbyterian Church of Pittsford, of the Woman's Christian Temperance Union of Wawarsing, and of the Woman's Educational and Industrial Union of Rochester, all in the State of

New York, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented petitions of Harry Lee Post, No. 21, of Brooklyn; of Henry Van Aernam Post, No. 232, of Ellicottsville; of Armstrong Post, No. 104, of Rhinebeck; of John M. Hutchinson Post, No. 243, of Pavilion; of Wilson Dean Post, No. 416, of Millport; of G. D. Bailey Post, No. 200, of Lowville; of Edward Hunting Post, No. 353, of Greenport; of Captain William A. Jackson Post, No. 301, of Middletown, and of H. H. Beecher Post, No. 582, of New York, all of the Department of New York, Grand Army of the Republic, in the State of New York, praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

Mr. HOPKINS presented a petition of the National Association of Retail Druggists of Chicago, Ill., praying for the adoption of an amendment to the so-called pure-food bill as reported by the Committee on Manufactures of the Senate; which was referred to the Committee on Manufactures.

Mr. GORMAN presented a petition of the Woman's Home Missionary Society of the Methodist Episcopal Church of East Baltimore, Md., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

Mr. CULLOM presented a petition of Tri City Lodge, No. 617, Brotherhood of Railroad Trainmen, of Rock Island, Ill., and a petition of E. T. Jeffery Lodge, No. 412, Brotherhood of Railroad Trainmen, of Centralia, Ill., praying for the passage of the so-called anti-injunction bill; which were referred to the Committee on the Judiciary.

He also presented petitions of Tom White Post, No. 529, of Mount Zion; of Stephenson Post, No. 30, of Springfield; of Alexander Sympton Post, No. 455, of Carthage; of Lee W. Myers Post, No. 182, of Lincoln; of Post No. 734, of Rockwood; of Alexander Post, No. 89, of Flora; of Eph Scott Post, No. 464, of Mahomet, all of the Department of Illinois, Grand Army of the Republic; of William McKinley Regiment, No. 29, Union Veterans' Union, of Marion, all in the State of Illinois, and of Post No. 25, Department of Florida, Grand Army of the Republic, of Gainesville, Fla., praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

He also presented petitions of the congregation of the Presbyterian Church of Trenton; of the congregation of the Missionary Baptist Church of Hamilton County; of the congregation of the Methodist Episcopal Church of Champaign; of the congregation of the Galum Presbyterian Church, of Pinckneyville, of the congregation of the Presbyterian Church of Macomb; of the Woman's Foreign Missionary Society of Jacksonville; of the Woman's Club of Rochelle; of the Woman's Missionary Society of Ottawa; of the congregation of the First Presbyterian Church of Peoria; of the Woman's Christian Temperance Union of Swanwick; of the congregation of the First Presbyterian Church of Carthage, and of the congregation of the Presbyterian Church of Carrollton, all in the State of Illinois, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. COCKRELL presented a petition of George R. Smith Post, No. 53, Department of Missouri, Grand Army of the Republic, of Sedalia, Mo., praying for the enactment of a service-pension law; which was referred to the Committee on Pensions.

He also presented a petition of F. A. Jones Post, No. 23, Department of Missouri, Grand Army of the Republic, of Macon, Mo., to accompany the bill (S. 1716) granting pensions to soldiers and sailors confined in so-called Confederate prisons; which was referred to the Committee on Pensions.

Mr. PATTERSON presented a petition of the Woman's Christian Temperance Union of Monument, Colo., and a petition of the Woman's Home Mission of Monument, Colo., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. DUBOIS presented a petition of sundry citizens of Ada County, Idaho, praying for the enactment of legislation to protect prohibition States and districts against "original-package" tricks; which was referred to the Committee on the Judiciary.

Mr. BEVERIDGE presented a petition of the Anti-Saloon League of Crawfordsville, Ind., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Westville and Stilwell, Ind. T., praying that the laws governing railroad work in that Territory be so amended that railroad employees be allowed a day of rest and Sabbath observance; which was referred to the Committee on Territories.

He also presented a petition of the Ladies' Missionary Society

of Madison, Ind., and a petition of the congregation of the United Presbyterian Church of Leroy, Ind., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a memorial of the Retail Merchants' Association of Kendallville, Ind., remonstrating against the passage of the so-called parcels-post bill; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Ladies' Aid Society of Woodford and of sundry citizens of Webbers Falls and Afton, all in the Indian Territory, praying for the enactment of legislation providing for continued protection against the sale of intoxicating liquors, and also for separate statehood for that Territory; which were referred to the Committee on Territories.

Mr. GAMBLE presented the petitions of Bishop W. H. Hare, Hon. O. S. Gifford, Rev. Robert Doherty, Rev. H. K. Warren, Rev. B. G. Matson, and Maj. J. T. Coxhead, all in the State of South Dakota, praying for the enactment of legislation to recognize and promote the efficiency of army chaplains; which were ordered to lie on the table.

Mr. NELSON presented a memorial of District Council of Duluth and Superior, United Brotherhood of Carpenters and Joiners, of Duluth, Minn., remonstrating against the employment of soldiers in the place of civilian mechanics upon buildings at the Presidio, San Francisco, Cal.; which was referred to the Committee on Military Affairs.

Mr. DOLLIVER presented a petition of the congregations of the Methodist Church, the Congregational Church, and the Christian Church, all of Glenwood, in the State of Iowa, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented petitions of Hartman Post, No. 149, of Goldfield; of G. W. Guthrie Post, No. 252, of Woodward; of Robert Mitchell Post, No. 206, of Marion; of Marshall Post, No. 43, of Redfield; of F. S. Shuler Post, No. 166, of Brandon; of Stephen A. Hurlbut Post, No. 82, of Alta; of E. L. Sheldahl Post, No. 439, of Story City; of Sulley Post, No. 180, of Lake Mills; of Opedyke Post, No. 322, of Rockwell City, all of the Department of Iowa, Grand Army of the Republic, in the State of Iowa, praying for the enactment of a service-pension law; which were referred to the Committee on Pensions.

Mr. ELKINS presented a memorial of the Fishermen's Protective Union of the Pacific Coast and Alaska, remonstrating against the reenactment of the law authorizing payment of allotment in the coastwise trade; which was referred to the Committee on Commerce.

Mr. FAIRBANKS presented a petition of the Commercial Club of Terre Haute, Ind., praying that an appropriation be made for the improvement of the Wabash River above Vincennes, Ind.; which was referred to the Committee on Commerce.

He also presented a petition of the Chamber of Commerce of Baltimore, Md., praying for the enactment of legislation to provide for the reorganization of the consular service; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Association of the Blues and Grays of Fitzgerald, Ga., praying that an appropriation be made for the completion of a park at that place and for the erection therein of a monument to the memory of the late President William McKinley; which was referred to the Committee on Military Affairs.

TORPEDO BOATS AND TORPEDO-BOAT DESTROYERS.

Mr. HALE. I present a statement relative to the cost of torpedo boats and torpedo-boat destroyers, authorized by the act of May 4, 1888, in connection with the relief of the contractors therefor. I move that the statement be printed as a document and referred to the Committee on Naval Affairs to accompany the bill (S. 3587) for the relief of the Bath Iron Works and others. The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. BATE, from the Committee on Military Affairs, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2177) for the relief of Daniel H. Snyder; and

A bill (S. 2433) to amend the military record of John H. Skinner.

Mr. DUBOIS, from the Committee on Indian Affairs, to whom was referred the bill (S. 3170) to quiet the titles of certain lands in the State of Mississippi, and for the relief of the estate of Eli Ayers, deceased, reported it with amendments, and submitted a report thereon.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 7023) to amend an act to regulate the height of buildings in the District of Columbia;

A bill (H. R. 3594) to authorize the resubdivision of lots or blocks in the District of Columbia;

A bill (S. 3600) to provide for the removal of snow and ice from the sidewalks of the District of Columbia, and for other purposes; and

A bill (S. 3644) to regulate the issue of licenses for Turkish, Russian, or medicated baths in the District of Columbia.

Mr. GAMBLE, from the Committee on the District of Columbia, to whom was referred the bill (S. 2885) to transfer jurisdiction and control over reservation No. 32 in the city of Washington, D. C., reported it without amendment, and submitted a report thereon.

He also, from the Committee on Public Lands, to whom was referred the bill (S. 580) to extend the provisions of section 2455 of the Revised Statutes of the United States as amended by act of February 26, 1895, relating to public lands, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Indian Affairs, to whom was referred the bill (S. 582) to ratify an agreement with the Lower Brule band of the Sioux tribe of Indians in South Dakota, and making appropriation to carry the same into effect, reported it without amendment, and submitted a report thereon.

Mr. PETTUS, from the Committee on Military Affairs, to whom was referred the bill (S. 228) for the relief of William H. Hugo, reported it without amendment, and submitted a report thereon.

Mr. CLAPP, from the Committee on Indian Affairs, to whom was referred the bill (S. 2302) to amend section 3 of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June 30, 1902, and for other purposes," reported it without amendment, and submitted a report thereon.

Mr. QUARLES, from the Committee on Military Affairs, to whom was referred the bill (S. 2357) to correct the military record of Samuel F. Hall, reported it without amendment, and submitted a report thereon.

Mr. BEVERIDGE, from the Committee on Territories, to whom was referred the bill (S. 3658) ratifying an act of the legislative assembly of the Territory of Oklahoma, legalizing the waterworks-bond election held by the city of Geary, in said Territory, reported it with an amendment, and submitted a report thereon.

HEARINGS BEFORE COMMITTEE ON APPROPRIATIONS.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. ALLISON on the 20th instant, reported it without amendment; and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Appropriations be, and it is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such testimony as may be taken by the committee or its subcommittees in connection with appropriation bills, and to have the same printed for its use, and that such stenographer be paid out of the contingent fund of the Senate.

CLERK IN SENATE POST-OFFICE.

Mr. KEAN. I also reported day before yesterday a resolution from the Committee to Audit and Control the Contingent Expenses of the Senate, to which the Senator from Maine [Mr. HALE] objected at the time. I have since given him the data and he has withdrawn his objection. The resolution has already been read. I should like to call it up.

There being no objection, the resolution reported by Mr. KEAN on the 20th instant was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Sergeant-at-Arms of the Senate be authorized to employ one clerk in the Senate post-office at a compensation of \$1,200 per annum, to be paid out of the contingent fund of the Senate until otherwise provided by law.

EMPLOYEES IN THE GOVERNMENT PRINTING OFFICE.

Mr. PLATT of New York. I am directed by the Committee on Printing, to whom was referred the bill (S. 2665) to provide for the allowance and payment to the employees of the Government Printing Office of the same leave of absence as is allowed to the clerks and employees of the Executive Departments of the Government, to report it unanimously, with an amendment in the nature of a substitute, and to submit a written report thereon. I ask for the present consideration of the bill.

The PRESIDENT pro tempore. The proposed substitute will be read for information.

The SECRETARY. The amendment of the Committee on Printing is to strike out all after the enacting clause and to insert:

That from and after the date of the passage of this act the thirty days' annual leave of absence with pay in any one year to employees of the Government Printing Office authorized by the existing law shall be exclusive of Sundays and legal holidays: *Provided*, That the existing laws relating to the granting of annual leave with pay to clerks and employees in the Executive Departments shall apply to clerks and employees of the Government Printing Office who are paid annual or monthly salaries or compensation.

Mr. GALLINGER. Mr. President—

Mr. PLATT of New York. I ask that the accompanying letter from the Public Printer be read.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Pending that, I should like to hear the letter from the Public Printer, which the Senator from New York asks shall be read. I do not quite understand the bill.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

GOVERNMENT PRINTING OFFICE,
OFFICE OF THE PUBLIC PRINTER,
Washington, D. C., January 12, 1904.

Hon. T. C. PLATT,

Chairman Committee on Printing,
United States Senate.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, calling my attention to the bill (S. 2065, Fifth-eighth Congress, second session) providing for the allowance and payment to the employees of the Government Printing Office of the same leave of absence as is allowed the clerks and employees of the Executive Departments of the Government.

Replying to your request that I furnish the Committee on Printing with an expression of my views in respect to the feasibility of the enactment of this bill into law, stating about what cost would be entailed, I have to advise you that as the law is at present administered, under decisions of the Comptroller of the Treasury, the employees of this Office are allowed pay for not exceeding twenty-six days accrued in any one fiscal year. It is estimated that it will require \$338,000 to pay the leaves accrued to June 30, 1903. Four additional days would add four twenty-sixths to this sum, or about \$50,500.

In the event that the Committee on Printing shall agree that such legislation is desirable, I would suggest that the language of the proviso in section 4 of the legislative act of February 24, 1890 (30 Stat., 890), be followed. The additional law will then read, "That from and after the date of the passage of this act the thirty days' annual leave of absence with pay in any one year to employees of the Government Printing Office authorized by existing law shall be exclusive of Sundays and legal holidays."

It would facilitate the keeping of individual accounts in the office if a proviso should be added as follows:

"Provided, That the existing laws relating to the granting of annual leave with pay to clerks and employees in the Executive Departments shall apply to clerks and employees of the Government Printing Office who are paid annual or monthly salaries or compensation."

Respectfully,

F. W. PALMER, Public Printer.

Mr. GALLINGER. I wish to ask the chairman of the Committee on Printing, Mr. President—possibly it is an unnecessary question—whether this bill carries any arrears of pay.

Mr. PLATT of New York. It does not.

Mr. GALLINGER. And it simply puts these employees on the same basis with the clerks and other employees in the several Departments?

Mr. PLATT of New York. Exactly.

Mr. GALLINGER. I see no objection to it.

Mr. CULLOM. I only want to say that I believe I myself introduced a bill for the exact purpose, as stated by the Senator from New Hampshire, to treat all the clerks and employees alike.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. MALLORY. I should like to ask—

Mr. HALE. Mr. President—

The PRESIDENT pro tempore. Is there objection to its consideration?

Mr. MALLORY. I should like to ask the Senator from New York a question for information. I notice that there is a distinction drawn between clerks and employees who draw an annual or monthly salary and those who do not. I should like to inquire if the Senator can inform us what proportion of the employees are paid by the day or week.

Mr. PLATT of New York. I do not know what the proportion is, but I know that this bill will increase the appropriation \$50,000.

Mr. HALE. Let me ask the Senator one other question. Is there any provision, any positive provision, in the bill that it shall not be construed as authorizing or admitting any claim for arrears of pay?

Mr. PLATT of New York. I do not think there is any such provision in the bill, but I will accept that amendment.

Mr. HALE. After the bill has been read, I will prepare an amendment which will cover that point.

The PRESIDENT pro tempore. The bill has been read. The question before the Senate now is whether it shall be considered.

Mr. HALE. Let it be read again.

Mr. TILLMAN. As I did not hear it read, before I give my consent for its consideration I should like to know what it is.

The PRESIDENT pro tempore. The amendment proposed by the Committee on Printing, striking out all after the enacting clause, will be again read.

The Secretary again read the proposed substitute.

Mr. ALLISON. Is that all there is of the bill?

The PRESIDENT pro tempore. That is all there is to it.

Mr. ALLISON. It is proposed to strike out the text of the bill and insert the provision which has been read?

Mr. PLATT of New York. That is right.

The PRESIDENT pro tempore. What has been read is a substitute for the bill as originally introduced.

Mr. ALLISON. These matters of leaves of absence and pay are usually disposed of in appropriation bills. I think it will turn out that if this provision is made applicable to the Government Printing Office it will also later on be applied to a great many people who are not included now.

Mr. TELLER. Mr. President, it is quite impossible for anyone to understand what the effect of the bill will be. I understand that it has just come from the committee. If there is an opportunity to object to it, I want to object.

The PRESIDENT pro tempore. There is. Objection is made.

Mr. TELLER. I wish to say that I do not know that I am opposed to the bill, but I do not know what the bill is, and I can not satisfy myself by the hasty reading at the desk.

The PRESIDENT pro tempore. The bill goes to the Calendar.

Mr. HALE. Before it goes to the Calendar, I will offer the amendment, that it may be printed and go with the bill.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. It is proposed to add at the end of the proposed substitute the following proviso:

Provided, That nothing in this act shall be construed as authorizing or admitting any claim for arrears of pay or compensation.

The PRESIDENT pro tempore. The amendment will be printed, and it will be regarded as pending.

Mr. HALE. As pending.

MISBRANDED SALMON FISH.

Mr. FULTON. I am directed by the Committee on Fisheries, to whom was referred the bill (S. 220) prohibiting the introduction into any State or Territory or the District of Columbia, from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country, any misbranded salmon fish prepared or intended for use as an article of food, to report it with amendments and to submit a written report. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill.

Mr. PLATT of Connecticut. I should like to make an inquiry of the Senator from Oregon. It is hard to catch the full effect of the bill in its reading. Does this proposed penalty for shipping misbranded fish apply to people who have bought the fish in market, who have no means of knowing whether they are misbranded?

Mr. FULTON. Mr. President, it does not apply to them. It only applies to persons who buy fish for the purpose of misbranding or knowing them to be misbranded.

I will state briefly the effect of the bill. It does not require the article or package to be labeled, but if it is labeled it requires that it should be labeled truthfully. It applies to only one article, and that is salmon fish, and prohibits mislabeling or misbranding as to the locality where the fish are taken, the season of the year when taken, or the species of the fish.

The practice has grown up on the Pacific coast of labeling all salmon as being the very best fish in the Columbia River. For instance, the Columbia River chinook salmon are supposed to be the very best salmon, and probably the Puget Sound sock-eye are the next. Very inferior fish are taken in other waters, but they are seldom ever labeled other than Columbia River chinook salmon or Puget Sound sock-eye salmon. The object of the bill is to require them to label the fish exactly what they are and the season of the year in which they are taken, because a fish taken in the springtime is far superior to one taken in the fall. So it should be labeled spring or fall, that is, if labeled at all.

Mr. TELLER. Mr. President—

Mr. PLATT of Connecticut. Will the Senator yield to me?

Mr. TELLER. I want to object to the consideration of the bill.

Mr. PLATT of Connecticut. Before the Senator objects—

The PRESIDENT pro tempore. Objection being made—

Mr. TELLER. I will waive the objection, in order to give the Senator from Connecticut an opportunity to make a remark.

Mr. PLATT of Connecticut. The bill appears to apply to everybody who may in the usual course of business buy canned salmon which may have been misbranded. I think the bill ought to go over, that we may have an opportunity to look at it.

The PRESIDENT pro tempore. The consideration of the bill is objected to.

Mr. TELLER. I object to it.

The PRESIDENT pro tempore. The bill goes to the Calendar.

BILLS INTRODUCED.

Mr. SCOTT introduced a bill (S. 3712) for the extension of Wyoming avenue to Twenty-third street west, and for the extension of Kalorama avenue westward to Prescott place; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 3713) for the relief of Richard Parrish; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 3714) for the relief of the heirs of A. J. Hickman; which was read twice by its title, and referred to the Committee on Claims.

Mr. McCREARY introduced a bill (S. 3715) for the relief of Merrill Denham; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 3716) to carry out the findings of the Court of Claims in the case of Sidney R. Smith & Co.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 3717) granting a pension to Rupert S. Rives; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GORMAN introduced a bill (S. 3718) to quitclaim all the interest of the United States of America in and to all lands lying in the District of Columbia and State of Maryland to heirs of John C. Rives, deceased; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 3719) for the relief of Richard R. Conner; which was read twice by its title, and referred to the Committee on Claims.

Mr. COCKRELL introduced a bill (S. 3720) to authorize the St. Joseph and Grand Island Railway Company, in the reconstruction of the bridge across the Missouri River at or near St. Joseph, Mo., to lower said bridge and to shorten the draw spans thereof; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 3721) for the purchase of a bronze portrait statue of George Washington; which was read twice by its title, and referred to the Committee on the Library.

Mr. ALLEE introduced a bill (S. 3722) granting a pension to John W. Victor; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3723) for the relief of William Donnelly and Patrick Egan; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 3724) to place John S. Appleton on the retired list of the United States Army; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. FOSTER of Washington introduced a bill (S. 3725) to establish a light-house and fog-signal station at the entrance to Bellingham Bay, State of Washington; which was read twice by its title, and referred to the Committee on Commerce.

Mr. McCUMBER (by request) introduced a bill (S. 3726) to carry into effect the findings of the Court of Claims in the (Congressional Case No. 23193) case of the Washington Loan and Trust Company, legal representative of the estate of Aaron Van Camp, deceased, and Mary M. U. Chapin and Rua P. Chapin, legal representatives of the estate of Virginius P. Chapin, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. HOPKINS introduced a bill (S. 3727) granting an increase of pension to Eli Headley; which was read twice by its title, and referred to the Committee on Pensions.

Mr. NELSON introduced a bill (S. 3728) to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane and destitute persons in the district of Alaska, and for other purposes; which was read twice by its title, and referred to the Committee on Territories.

Mr. ELKINS introduced a bill (S. 3729) to relieve Eli Shuman from the charge of desertion; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 3730) for the relief of T. J. Coagar; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 3731) granting an increase of pension to Arthur F. McNally; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALDRICH introduced a bill (S. 3732) to restore to the active list of the Navy the name of Homer Lycurgus Law; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Naval Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 3733) granting a pension to Ellen S. Pickering (with an accompanying paper);

A bill (S. 3734) granting an increase of pension to Martha W. Cushing; and

A bill (S. 3735) granting an increase of pension to Susie G. Seabury.

Mr. PLATT of New York introduced a bill (S. 3736) for the relief of certain enlisted men in the Twentieth Regiment of New

York Volunteer Infantry; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PLATT of Connecticut introduced a bill (S. 3737) to authorize the President to appoint Capt. Edward O. C. Ord to the grade of major in the United States Army and place him on the retired list; which was read twice by its title, and referred to the Committee on Military Affairs.

He also (for Mr. HAWLEY) introduced a bill (S. 3738) granting an increase of pension to Linus S. Ludington; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McCREARY (by request) introduced a bill (S. 3739) for the relief of the heirs of Charles M. Strader, James Thompson, and others; which was read twice by its title, and referred to the Committee on Claims.

Mr. CULLOM introduced a bill (S. 3740) granting a pension to Mary A. Newberry; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3741) granting a pension to Mattie J. Phillips; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HALE introduced a bill (S. 3742) granting an increase of pension to Juliet C. Bainbridge-Hoff; which was read twice by its title.

Mr. HALE. I present a memorandum of the service in this case, which I move be printed, and referred with the bill to the Committee on Pensions.

The motion was agreed to.

Mr. CLAY introduced a bill (S. 3743) granting a pension to Julia F. Stewart; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DANIEL introduced a bill (S. 3744) granting a pension to Maria Elizabeth Horner; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 3745) for the relief of the Presbyterian Church of Lovettsville, Va. (with an accompanying paper);

A bill (S. 3746) for the relief of Salem Baptist Church, of Clarke County, Va.;

A bill (S. 3747) for the relief of the legal representatives of the estate of John Heater, deceased; and

A bill (S. 3748) for the relief of the Mount Zion Church of United Brethren, of Frederick County, Va. (with an accompanying paper).

Mr. FRYE introduced a bill (S. 3749) granting an increase of pension to Milton W. Burnham; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3750) granting a pension to Daniel G. Webber; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BLACKBURN introduced a bill (S. 3751) for the relief of James C. Bacon; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 3752) for the relief of the heirs of James W. Wilkins; which was read twice by its title, and referred to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ALDRICH submitted an amendment proposing to appropriate \$152.13 to pay the salary due Franklin Moses, as register of the land office at St. Michael, Alaska, from May 31 to July 7, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

He also submitted an amendment proposing to appropriate \$1,500 for consul at Colonia, Uruguay, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. FAIRBANKS submitted an amendment proposing to increase the salary of the Assistant Secretary of the Department of the Interior from \$4,000 to \$5,000, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

RECESS APPOINTMENTS.

Mr. TILLMAN. Mr. President, in pursuance of the notice I gave yesterday, I ask leave to call up Senate resolution No. 51, in order that I may—

The PRESIDENT pro tempore. The Senator from South Carolina asks unanimous consent that the resolution indicated by him may be brought before the Senate for consideration. It is one that has been lying on the table.

Mr. TILLMAN. I wish to make some remarks on it before

asking whether the Senate will pass it or not or seeing what they will do with it.

The PRESIDENT pro tempore. Does not the Senator desire to have the resolution read?

Mr. TILLMAN. Yes, sir; I want to have it read.

The PRESIDENT pro tempore. Is there objection to the resolution being taken from the table now for consideration?

Mr. ALDRICH. There is no objection to its being taken up for discussion.

Mr. TILLMAN. That is all I want.

The PRESIDENT pro tempore. The resolution is before the Senate. The Secretary will read the resolution.

The Secretary read the resolution submitted by Mr. TILLMAN December 11, 1903, as follows:

Whereas Article II, section 2, of the Constitution of the United States provides:

"The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint * * * all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law."

And further:

"The President shall have power to fill up all vacancies which may happen during the recess of the Senate by granting commissions, which shall expire at the end of the session;" and

Whereas it is known that certain officers appointed during the recess of Congress from March 4 last to November 9, and whose appointments were not confirmed by the Senate, are now in possession of and exercising the powers and functions of said offices: Be it

Resolved, That the Judiciary Committee of the Senate be, and it is hereby, authorized and instructed to report to the Senate:

First. What constitutes a "recess of the Senate," and what are the powers and limitations of the Executive in making appointments in such cases.

Second. What legislation is necessary to prevent the holding of an office by any person or persons whose commissions issue or are held by Executive exercise of unlawful authority, if any there be.

Mr. TILLMAN. Mr. President, there has been considerable confusion. Most Senators are familiar with these two quotations from the Constitution anyway, but I notice that in the print there are two mistakes. I should like to have those corrected and to have a reprint of the resolution ordered, even if the Senate puts it in the wastebasket.

The PRESIDENT pro tempore. If the Senator will call the attention of the clerks to the mistakes they will make the corrections he desires.

Mr. TILLMAN. The resolution is not lined, but in the second paragraph the word "which," in the second line, should be "that;" and at the end of the third line the phrase "at the end of the session" should read "at the end of their next session." The Constitution is quoted wrongly.

The PRESIDENT pro tempore. Those corrections will be made.

Mr. TILLMAN. Mr. President, I trust Senators will not consider that this is an academic proposition or a moot question which I have submitted here; and I would beg, if possible, that no one shall inject into it any partisan feeling or any suspicion that I am actuated by partisan feeling. To quote the language of the Senator from Connecticut [Mr. PLATT] yesterday evening, he did me the honor to say that I am an adroit debater and sometimes change the point of attack. I want to say that this is not a new attack on the Executive, who has been under fire for some time. In other words, I wish to impress Senators with the fact that in bringing this subject to the attention of this body I am actuated solely by a desire that we shall not, by negligence or seeming acquiescence, establish a precedent in the construction of the Constitution and the interpretation of it by the President, which will be of immense danger and harm in the future.

Now, why did I introduce this resolution? I simply want to find out what the Senate itself thinks of the new doctrine of a constructive recess. We have been passing along the road of our national life for one hundred and twenty-odd years, and never before has any President, or Vice-President who succeeded to the office, undertaken to claim that this clause of the Constitution is not perfectly plain and, to an honest mind, unmistakable in its meaning. Let me read it:

The President shall have power to fill all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Language can not be made plainer. Nobody in the past has had any doubt about the meaning of these words, but it has remained for our present Executive, under that excess of knowledge which has been given to him alone, apparently, or that insight into constitutional law which enables him to see farther than other people, to claim or assert a right and exercise the power of making appointments between 12 o'clock and 12 o'clock of the same day.

In other words, there is at least one officer holding an important position, and I think a good many others, though I have not taken the trouble to verify my information, who hold commissions to-day which are said to have been given in the recess of the Senate, who, under those commissions, are exercising the powers

and functions of their offices, and who are receiving or will receive compensation for their work.

Mr. HALE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Maine?

Mr. TILLMAN. I do.

Mr. HALE. I did not know, Mr. President, that the President of the United States had in any way by any act of his committed himself to the proposition that when the extra session called by him closed at 12 o'clock on December 7, 1903, and immediately the regular session began there was a constructive recess between them. I have not learned, and have yet to learn, that the President has committed himself to that proposition. Appointments afterwards were made where the commissions had expired. But I had supposed the whole question whether or not if anybody—not the President, but if any officer appointed afterwards—whose nomination was sent to the Senate and confirmed claims that he has the same right, the same salary that he would have if there had been an actual recess, that the Comptroller would settle that.

I have never doubted, Mr. President, that the Comptroller would make short work of this question. The Constitution does not deal in tricks and surprises. The recess contemplated in it is an actual recess, a recess that may be used properly in the administration of the Government when there is time, and should be, in order that a new appointment be made.

I never took any stock in the theory that there was a constructive recess between 12 o'clock and 13 o'clock, and I do not know, but I doubt, whether many or any Senators have taken that ground. Therefore I say that I am rather surprised that the Senator from South Carolina states that the President of the United States has committed himself to that proposition. I did not so understand, and I hope that he has not.

Mr. TILLMAN. I am making a statement of facts.

Mr. BEVERIDGE. Will the Senator state just what the President has done?

Mr. TILLMAN. Well, my dear sir, will you not let me proceed in my own way?

Mr. BEVERIDGE. If the Senator does not want to answer the question, very well.

Mr. TILLMAN. I expect to answer any proper question presented in the proper way, and in my own way.

Mr. BEVERIDGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Indiana?

Mr. TILLMAN. With pleasure.

Mr. BEVERIDGE. I certainly owe the Senator from South Carolina an apology for asking him a question from my seat. I should have risen and asked him the question. I merely asked him to give us information as to just what the President had done of which he complained. But, further, I will say to the Senator that I have merely asked the question for the purpose of getting information. I do not know what information the Senator possesses to vindicate his comments in this case.

Mr. TILLMAN. The Senator has now complied with the requirements which are sometimes observed here when the Senator from Alabama [Mr. PETTUS] is in the chair; and I was not protected, as he usually does protect the Senator who has the floor, by the present occupant of the chair [Mr. FRYE], who is always lenient and kindly in dealing with all Senators, including me, who am—well, a chronic breaker of the rules, not intentionally, but through ignorance or from lack of aptitude to learn them, or something of that sort.

I want to answer the Senator's question; I want to answer frankly, and I want to answer without any tinge of resentment or any indication whatever that I have any feeling in the matter, for I have none.

I was interrupted in my answer to the Senator from Maine [Mr. HALE]. I am sorry that I have mislaid for the moment a letter which I received in reply to an inquiry I addressed to the Secretary of the Treasury, in which the matter is put in official form. I will either get the original, which I am having looked up, or I will send to the honorable Secretary of the Treasury and ask for a copy. But, as I recall the facts, they are these: I directed an inquiry to Mr. Shaw as to when or on what date a commission was issued to William H. Crum as collector at Charleston. He had been appointed, I believe, four or five times, but he had never been confirmed.

I asked Mr. Shaw to tell me whether Mr. Crum was now holding office, and, if so, under what authority. In answer to that, he replied, giving the date when Mr. Crum received his recess commission, and then went on to state that he was now in office and the authority for it was that precisely at 12 o'clock on the 7th of December a new appointment was made and a new commission issued under it. So we have one of the Cabinet officers—and undoubtedly under the instruction or by the authority of the President—taking the position that such a thing as a constructive

recess between the adjournment of a session of Congress and the convening of a session, even though there be no time intervening, is one of the things which we have come to have in our governmental affairs.

Now, so far as Mr. Crum is concerned, it may be considered by Senators that I am interested in the matter because of his connection with it. That is not the case. I am interested in it because of the fact that the Constitution of the United States does not recognize, according to my interpretation of it, any such thing; and the presence in the office of collector of customs at the port of Charleston of this man, under a commission issued by the President of the United States, exercising its functions and performing its duties, and who in time is to claim its emoluments, is a direct violation of the Constitution itself and of the law also.

That is my contention and that is my idea. I would contend for the rights of Congress and of the Senate just as quickly and as promptly and as zealously if my State was not interested as I do now. I simply want this body to take cognizance of a new interpretation of the organic law of the land and to decide what it will do to protect its ancient rights. That is all.

In examining into the status of this question to see what had been the habit and custom heretofore, and whether such a thing as this had ever been attempted, I came on some very, very interesting history. I found that before the expiration of the Thirty-ninth Congress, by an act of Congress approved January 22, 1867, Congress itself enacted a law which changed the time of the meeting of the following Congress from the first Monday in December to March 4; in other words, the expiring Congress called its successor by law to meet the moment that it itself died.

Mr. SPOONER. Mr. President—

The PRESIDING OFFICER (Mr. PERKINS in the chair). Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. I do with pleasure, always.

Mr. SPOONER. The Senator contends that there was no recess, then, as I understand him?

Mr. TILLMAN. When the President pro tempore arose in his seat and announced that the time for the assembling, as I recall his words, of the first regular session of the Fifty-eighth Congress had arrived, he said: "I declare the extra session adjourned sine die. The Senate will come to order." If any man who claims to have any common sense can stand up and undertake to say that there can be any recess under those conditions I do not understand the meaning of the word "recess."

Mr. SPOONER rose.

Mr. TILLMAN. I do not know what the Senator is going to contend, of course, but if he should now, contrary to all of my anticipations and expectations and my most valuable admiration for him, destroy it all, why, of course, I shall have to take whatever comes. [Laughter.]

Mr. SPOONER. Of course, Mr. President, it is not for the Senator to say how valuable his admiration for me is. It is for me to say that. [Laughter.]

Mr. TILLMAN. No, it is for me to give my estimation of it, my friend. I do not give my admiration without it is deserved first; therefore it is valuable.

Mr. SPOONER. And that is why I value it. [Laughter.]

Mr. TILLMAN. Thank you.

Mr. SPOONER. I do not intend to disappoint the Senator from South Carolina in anything I may say. I do not intend to give approval to the notion that there can be a constructive recess.

Mr. TILLMAN. I know that you can not. But I will sit down until the Senator gets through.

Mr. SPOONER. The Senator once in a while is an accurate prophet. The law takes no account of the fraction of a day and the Constitution takes no account of the fraction of a minute; but the point to which I desire to attract the attention of the Senator for only a moment, and not by way of argument, is this: He contends that the President had appointed this officer in an actual recess.

Mr. TILLMAN. I did not contend it. I only stated that the Secretary of the Treasury had informed me of the facts.

Mr. SPOONER. But when we adjourned at the last regular session—I mean the session ending in March—there of course was a vacancy.

Mr. TILLMAN. Yes.

Mr. SPOONER. The officer not having been confirmed he was reappointed; and that was lawful.

Mr. TILLMAN. He was reappointed and commissioned.

Mr. SPOONER. He was reappointed and commissioned.

Mr. TILLMAN. And that was lawful.

Mr. SPOONER. That was lawful. Now, here is what troubles me: His name was sent in again for confirmation, was it not, when Congress met in extra session in November?

Mr. TILLMAN. Yes; for confirmation as a recess appointment.

Mr. SPOONER. For confirmation?

Mr. TILLMAN. Yes.

Mr. SPOONER. Now, if there has been no recess since that time, there has been a continuous session, and would he not hold until the adjournment of this session? If that be not true, then is this difficulty not presented, that where one session runs into another, with no moment of time intervening, the office would be vacant on the Senator's theory? Does not the way the Senate is constituted prevent that?

Mr. TILLMAN. Does the Senator make that point?

Mr. SPOONER. Yes.

Mr. TILLMAN. It is the finest one I have ever heard my friend make, but it will not go. [Laughter.]

Mr. HALE. Let me ask a question.

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Maine?

Mr. TILLMAN. With pleasure.

Mr. HALE. I want to put before you the whole scope of the suggestion.

Mr. SPOONER. I am not justifying a new commission.

Mr. HALE. That is the point I was coming to. The actual result of that would be that if there were no recess, no interposition of a recess, and the Congress continues straight along, the old appointment would hold good.

Mr. SPOONER. That is what I say.

Mr. HALE. But the old commission, received in an undoubted recess, which was lawful, would run over and still live. That would be the Senator's idea?

Mr. SPOONER. And that office would be vacant after the adjournment of this session.

Mr. HALE. That would not justify a new appointment.

Mr. SPOONER. No; and that is the only question.

Mr. TILLMAN. That is the sharpest legal point or quibble I have ever known the Senator to raise here, but he himself, if he will just dismiss the idea that I am attacking his party or his President and will discuss this question and analyze it as a lawyer—

Mr. SPOONER. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. I do not impugn the Senator's loyalty to his convictions, but I hope he will not get up and defend himself until I attack him. I relied on him a moment ago and he did not disappoint me, and I am going to rely on him again, but I want to elucidate my position a little before he proceeds. [Laughter.]

Let us look at the language of the Constitution itself. It declares that—

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Not during the recess. Now, the fact that we never did adjourn the extraordinary session, the fact that the two sessions merged, can not by any legal quibble be distorted into the contention or the acknowledgment that the two sessions created a recess, or that because the two sessions did not separate, except for a moment of time while the Chair announced the death of one and the beginning of the other, therefore there was no end of the other session.

Mr. SPOONER. I agree—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. Yes, sir.

Mr. SPOONER. Mr. President, I agree with the Senator from South Carolina upon the question of a constructive recess. I only presented to him what presented itself to me as a matter of the practical consequence—I do not undertake to solve it—of the situation. I do not pretend to say what the law is about it, although I do say it would seem to be clear that where the nomination of a person who had been appointed in actual recess, and whose nomination had been sent to the Senate at an extra session, and he was in possession of the office under the recess appointment, he would continue in possession of the office until the adjournment of the Senate without his confirmation. If where the sessions run into each other he is not to continue to hold, then the office is without an occupant. There is nothing technical about it. I am not controverting the position of the Senator.

Mr. TILLMAN. If the Senator is endeavoring to help me throw light on this question, I will give him the credit of that until I discover that he has got a cat in the meal tub somewhere.

Mr. SPOONER. I do not keep cats. [Laughter.]

Mr. TILLMAN. The Senator will excuse my homely comparison, but the Senator is so sudden and so resourceful, he is so keen and shrewd and alert and adroit, and all that kind of thing, that I sometimes fear him even when he brings me gifts. [Laughter.]

Mr. SPOONER. The Senator does me injustice.

Mr. TILLMAN. Then I apologize and take it all back. I be-

lieve that we are all honest and that the Senator agrees with me. Now go on.

Mr. SPOONER. I want to call the attention of the Senator from South Carolina—and the Senator from Virginia [Mr. DANIEL] sees the point that troubles me about this—

Mr. TILLMAN. Will the Senator let me cut the Gordian knot? I can do it in a second.

Mr. SPOONER. One moment. I want to call the attention of the Senator to the fact that there is a distinction between the Senate and the House of Representatives.

Mr. TILLMAN. That the Senate never dies. I know that.

Mr. SPOONER. That is right. The Senate is a continuing body.

Mr. TILLMAN. But a commission does die.

Mr. SPOONER. But I am not talking about a commission. My question is whether a man, having been commissioned in an actual recess, having taken possession of an office and being in the discharge of its duties—this being a continuing body—whether, where two sessions of the Senate run into each other, there being no interregnum, he does not of necessity and to safeguard the public interest, as intended by the constitutional provision, continue to discharge the duties of the office until the end of the session?

Mr. HALE. Under his old commission?

Mr. SPOONER. Certainly.

Mr. DANIEL. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. TILLMAN. In a moment, Mr. President, I shall be glad to have all the light I can get from any quarter, because I have a great deal of it here that I am going to give you gentlemen before I get through. I have got some startling stuff here for you. [Laughter.] Now I yield to the Senator from Virginia.

Mr. DANIEL. I thank the Senator from South Carolina.

In the case referred to would not the trouble have been obviated if the next morning the President had sent a new appointment to this body and let the former appointment drop at the end of the extraordinary session?

Mr. TILLMAN. Mr. President—

Mr. DANIEL. Just let me state my point. If the last commission had expired with the last moment of the extra session, could not the President have sent in a new nomination to the new Senate just as easily as to have interpreted a recess and made the appointment in that so-called recess?

Mr. TILLMAN. Let me show you how far wrong all you lawyers are. [Laughter.] Who held the office and who performed its duties prior to the issuing of this commission? I found this vacancy had existed more than a year. This Crum matter has become one of the causes célèbres of this country. It has involved in it that miserable race question, which is to plague us for a million years, it appears. Crum was appointed and reappointed, but never in a recess, until we adjourned last March; yet the Government went on and the duties at Charleston were collected. There was a man there, the deputy collector, who performed the duties of the office, and who was ready to step back and take the place of his chief as soon as the Senate refused to confirm him. That contention about a vacancy will not do.

Mr. SPOONER. Mr. President—

Mr. TILLMAN. But the office was vacant.

Mr. SPOONER. I was not making the suggestion with reference to Crum.

Mr. TILLMAN. That will answer.

Mr. SPOONER. It does not answer.

Mr. TILLMAN. It answers as an illustration of the point the Senator is contending for.

Mr. SPOONER. No; it does not. I do not say what I am contending for; but suppose during a time of war the question involved the man who should be at the head of the Army, directing the affairs and operations of the Army in defense of the country, what then?

Mr. TILLMAN. Let me answer that. There are always certain officers to hold over until their successors are "appointed and qualify." No general in command of an army will ever give up his position and go off and leave it without a head until his successor has been appointed, has presented himself to take command, and is able to state, "By order of the President, I am to succeed you." So that case will not do; it is absolutely too far-fetched, and the Senator will have to try again.

I want Senators who may be in doubt, as perhaps some of them are honestly in doubt, not to forget the words of the Constitution itself:

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

The Constitution says the appointment can only be made in the recess, but if the Senate has had the opportunity to pass upon it and has failed to do so the man goes out. You can not successfully dispute the lawfulness and justice of my contention.

This is a session of the Senate. Why, look at your own acts here. Look at your CONGRESSIONAL RECORD, which shows that the first session of the Fifty-eighth Congress adjourned, disappeared, went into history, on the 7th of December, and a new session, the second session, began. You are contending against all the precedents from the foundation of the Government until this time.

But let me go back to my record. I read a moment ago the act of Congress approved January 22, 1867, at the time when the meeting of Congress was changed from the first Monday in December to March 4. Why? An examination into the history of those times will show you that the then sitting Congress felt unwilling to adjourn on the 4th day of March, and leave this Government in the hands of Andrew Johnson between March and December, with no lawful authority in itself to convene. The debates all prove it.

The next Congress met on March 4, the day on which it was called together by law, and on March 30 adjourned until July 3. They would not adjourn until the December date, but they went to July, feeling that they had sufficiently handcuffed the President or had terrorized him or hedged him about so that he could accomplish nothing detrimental between March and July.

They met on July 3 and remained in session until July 20, when they adjourned, or, rather, took a recess to November 21, 1867, when they adjourned on December 2, without day.

They met again in regular session on the same day, December 2, 1867, and remained in session until July 27, 1868. In other words, the regular session began just as our session this year began, the minute the extra session or the adjourned session ended. They met again on the 21st of September, 1868, and adjourned on the same day to October 16. They met again on October 16, 1868, and adjourned on the same day to November 10. They met again on November 10 and adjourned on the same day, without day. In other words, they had accomplished their purpose. They had passed all the laws they thought needful. They had tried to impeach the President and failed, but had sufficiently hamstrung him or terrorized him or done whatever you choose to call it, so that they did not feel that he could do any more harm.

But all this did not happen without discussion, and I want to read from that debate. I was very much interested, when I came across these speeches in the RECORD, to see how differently men can look at things when they allow supposed party advantage to bias them or to cause their minds all to go in one direction.

On the 21st of March, 1867, a resolution providing for adjournment sine die being before the Senate, Mr. Sumner took the floor in opposition, and used the words I will quote.

I hope the Senator from Wisconsin will remain in the Chamber. While he may not have very much respect for Mr. Sumner as a lawyer, he must have great respect for him as a statesman, and I want him to catch Mr. Sumner's idea of constitutional limitations.

Mr. SPOONER. Does the Senator care particularly precisely what part of the Chamber I am in?

Mr. TILLMAN. I beg the Senator's pardon. I took it for granted he was going out.

Mr. SPOONER. No.

Mr. TILLMAN. My friend is always so fascinating and is such an exhilarating adjunct to my talks that I like to have him around.

These are the words of Mr. Sumner, in discussing this proposed adjournment:

You must not forget that our President is a bad man. This is the first fact. He is a bad man, who is the author of incalculable woe to his country, and especially to that part which has been most tried by war and most needed kindly care. Search history, and I am sure that you will find no ruler who, during the same short space of time, has done so much mischief to his country. He stands alone in bad eminence. Nobody in ancient or modern times can be his parallel. Alone in the evil he has done, he is also alone in the maudlin and frantic manner—

I want you to watch those adjectives—

the maudlin and frantic manner which he has adopted. Look at his acts and read his speeches. This is enough.

Such is the fact. And now I ask, Can Congress quietly vote to go home and leave this bad man without hindrance of any kind? These scenes are historic. His conduct is historic. Permit me to remind you that your course with regard to him will be historic. It can never be forgotten if you keep your seats and meet the usurper face to face; it can never be forgotten if, leaving your seats, you let him remain master to do as he pleases. Most of all, he covets your absence. Do not indulge him.

Looking along in the discussion in regard to these various recesses and adjournments from day to day, I came on another interesting and meaty sentence or two. Speaking of this same President, the then Senator from Michigan, Mr. Howard, uses these words, and he is putting words in the mouth of the President himself as illustrating the feeling, the purpose, the idea, the ambition, the self-reliance, and all that which actuated President Johnson; and he makes Mr. Johnson say:

I am he who holds your destinies in his hand; I must be obeyed; I am the infallible judge of the Constitution. I have unrolled it; I understand it; I am conscientious; Congress and the so-called loyal people are not conscientious; I am patriotic; they are not; they are traitors; I am great; they are

small; they must be put down; I must be put up; and you must remain in your present condition until I have had my way.

There are suspicions abroad and intimations from very respectable sources that history is repeating itself. But I do not want to be partisan and I am not making any attack on our Executive. I am trying to get the Senate to discuss and dispose of this new issue which has arisen without considering the present occupant of the White House, and solely as great lawyers and great statesmen, as leaders of a great party who have made history and who are to-day being watched to see how far they are going to allow these usurpations to go before they cry, "Halt!"

There was another discussion in regard to the adjournment and the dangers that might come from a constructive recess, the very milk of the cocoanut, so to speak, of these old speeches. I quote:

Mr. GRIMES. I offer the following resolution for adoption: "Resolved by the Senate (the House of Representatives concurring), That the President of the Senate and the Speaker of the House do adjourn their respective Houses without day on Monday, the 2d of December next, at half past 11 o'clock a. m."

I will state here that Monday, the 2d day of December, was the first Monday in December, when Congress, under the Constitution, was to convene in regular session.

Mr. SUMNER. I would suggest "at 12 o'clock."

The PRESIDENT pro tempore. Is there any objection to the present consideration of the resolution? The Chair hears no objection.

Mr. SUMNER. I do not wish to object to its consideration, but I have a serious question whether we should leave even the break of half an hour between the two sessions. The point in my mind is just this: Will you leave the President of the United States one half hour within which he may take advantage of the absence of Congress and issue commissions which would then run perhaps—I do not undertake to decide the point now, but which I say might run then to the last day of the next session of the Senate.

Just what is being contended for here now.

That may be midsummer or autumn. We may not leave here before autumn. I take it that an appointment made during that interim of half an hour might possibly be valid to the last day of the next session of Congress.

Mr. Sumner did not think the vacancy in the office would create any legal question at all.

Mr. MITCHELL. What became of the resolution?

Mr. TILLMAN. Wait; I am going to give you the history of it. I am going to read the debate. This ancient history is valuable, because as we pass along and new headlights come up, new ideas take possession of us as a people, and as we go crazy, seemingly, with this new, dazzling dream of empire and all that sort of thing, we must, as Mr. Webster says, be guided by the lamps of experience if we are to go right; and if we lose our heads and permit some men to go ahead boldly and rashly their way there is no telling where we will land.

Mr. Edmunds, in answer to Mr. Sumner, said:

But the law takes no notice of parts of a day.

Other lawyers knew that as well as the Senator from Wisconsin.

Mr. SUMNER. Why open the question? That is a technicality.

Mr. GRIMES. I do not think the question is worth having a debate about, and I am content that any amendment should be made to the resolution which the Senator from Massachusetts chooses to suggest.

Mr. SUMNER. Why not say "12 o'clock?"

Mr. GRIMES. Very well.

The PRESIDENT pro tempore. Does the Senator from Iowa so modify the resolution?

Mr. GRIMES. Yes, sir.

Then Mr. Sherman, another great statesman of this country, one of the greatest that it has ever known, a leader whose work for good or bad is here to stay as an enduring monument to his intellectuality and his hold upon the public confidence, said what I shall read.

Mr. SPOONER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Wisconsin?

Mr. TILLMAN. With pleasure. I hope the Senator does not object to my paying a compliment to Republicans.

Mr. SPOONER. But I object to your always waiting until after they are dead.

Mr. TILLMAN. I just paid the Senator from Wisconsin one compliment, and as nice a one as I could frame. If it does not suit him, I will write him one, and I will just lard it down with sweetmeats. Have I not just now said that you are great lawyers and great statesmen? And I am waiting to see whether you are bound hand and foot to the President's chariot wheel and are going to be dragged in the mire of loss of self-respect, and all that sort of thing, by yielding to this constructive recess proposition. I do not believe it. I am going to wait and see. I have faith that there are yet statesmanship and patriotism among the great men on that side.

Mr. Sherman said:

I can not see any object in passing this concurrent resolution. The Constitution provides that the regular session of Congress shall be on the first Monday of December, and according to law, I believe—or, at any rate, such is the usage—the hour for meeting on that day is 12 o'clock. We shall meet at that time in a new session. The recent law has not changed that regular time of meeting, and the result is that the next session of Congress will commence necessarily at noon on Monday. Why not allow the two sessions to merge? Why not have this session go on and expire by the necessary limita-

tion fixed by law and the Constitution? I think that would be better. I do not see any object to be gained by passing a resolution for adjournment sine die. I would vote with pleasure for a recess until Monday at half-past 11 o'clock, and let one session blend with the other. I see no objection to that course, while the passage of a resolution for adjournment sine die may raise questions which we will have to meet hereafter. I have not examined the question, nor thought about it, but I have supposed that by a recess or some process of that kind this session would be continued till Monday and terminate at the beginning of the other without a formal vote.

Mr. FESSENDEN. It strikes me that there should be, in accordance with universal usage—though, to be sure, this is rather an exceptional case—a joint resolution fixing the time when this session shall terminate. I am perfectly agreed that it is not advisable perhaps to have any very appreciable interval of time, or any very considerable time, at any rate, between the termination of this session and the commencement of the next regular session. Still, I think that there should be an appreciable distinction, and that we should fix the time of adjournment and adjourn accordingly. I have no very fixed opinion in relation to the matter that I am not willing to give up to the opinion of others if they choose to take the responsibility. I see no objection to fixing the time at five minutes before 12 o'clock, if you please, so as to have some little interregnum or interval between the expiration of one session of Congress and the commencement of another. This is the idea I have entertained and expressed to several gentlemen in conversation on the subject, and my own opinion is that it would be better, because in accordance with usage. I do not think that five minutes would be a time within which any very great harm could be done. It is with reference rather to the record, and to keeping things in order on the record, that I suggest that it would be well to have the usual joint resolution of adjournment.

Mr. TRUMBULL. I merely desire to say that I am indifferent as to what particular time we adjourn sine die. This session, I suppose, will close at some time, and individually it is immaterial to me whether it is to-day or next Monday; but I wish to put in my protest against any such reason as is advanced here in the Senate. I think the Congress of the United States should pursue the even tenor of its way, and while we have a President, I am for treating him as President, and I will not anticipate that he is going to do some terrible thing during five minutes between 11 o'clock and 55 minutes next Monday and 12 o'clock. Let him take the consequences of his acts. Let us legislate, do our business, and adjourn without any reference to any rumors about the town that a certain thing is to be done and not to be done. I care nothing about it. I do not believe this country is to be ruined or destroyed in any five minutes, and therefore I hope that whatever time we fix, and I am indifferent about it, will be fixed in reference to our own convenience and the convenience of Congress, and not in reference to what somebody may suppose that some other department of the Government is going to do.

Mr. SUMNER. I hope that what we may do may be done with reference to the welfare of the country and with no particular reference to any rumors or reports. There I agree with my friend; but then I do not agree with him when he says, "Give the President another chance." We have already been giving him chances, and we can not act now in any way without taking into consideration his character and position. Those are now matters of history. I wish to speak with proper delicacy, with proper reserve, when I allude to him, but I must speak under the responsibility of a Senator. A large portion of our country believe the President to be a wicked man, of evil thought and unpatriotic purposes, and in spirit and conduct the successor of Jefferson Davis, through whom, at this moment, the rebellion is revived. Those are the sentiments of a large portion of our people.

Mr. DIXON. I desire to ask the Senator if that is the opinion of a majority of the American people, in his judgment?

Mr. SUMNER. Well, that does not belong to the question. I say it is unquestionably the opinion of a large portion of the people of the United States, whether a majority or not, the future may disclose. I do not wish to go in advance or anticipate any such judgment. I speak now simply with reference to what is before us. The question is whether we shall give him another opportunity. I say "No." In arriving at that conclusion I do not act on any rumor that is aloft to which the Senator from Illinois refers. I act with reference to the character of the Chief Magistrate as displayed in his public acts, and it seems to me that it will be something like rashness in the Senate if they concede to him another occasion to practice on the country in the carrying out of his policy as we know that he has practiced in times past. I feel that we ought to stop the way. We should not give him a day; we should not give him five minutes—I am ready to say that—not five minutes for the chance of an exercise of illegitimate power. I will not allow him to exercise it and then take my chance hereafter of applying the corrective. "An ounce of prevention is better than a pound of cure." Such is an old saying, and now is an occasion for its application.

And that brings me to the exact point as to whether the present session should expire precisely at the time when the coming session begins. I see no reason why it should not. I see no reason why we would interpose the buffer even of five minutes. Let one session come right up close upon the other, and then we shall exclude every possibility of evil consequences from the character of the Chief Magistrate. It is well known that in other governments, when, for instance, the king dies, the moment the breath is out of his body power is in his successor, so that there is a common saying, "The king is dead; long live the king." Now, I know not why, when this session expires, we may not at the same time announce its expiration and announce the beginning of the new session.

Now, Mr. President, all of that discussion of constitutional law and interpretation of the Constitution has but one meaning, that this doctrine of a recess or of a vacancy that might arise by reason of the expiration of a commission and all that kind of thing, which has just been announced by the Senator from Wisconsin, was thought of by those men. They would not give Andrew Johnson one minute, for they felt if they did he might appoint some one in the interim who would, under his construction and contention, hold the office until the expiration of the succeeding session, as the Constitution provided.

Mr. HALE. Was not this the substance of it? It is in the line of what the Senator said, and his reading has been very interesting, bearing upon the exact subject before us. It seems that at that time the question arose whether any interval should be allowed between the extra session and the regular session, and to avoid any possible question and utterly to put down and extirpate any idea that there could be recess, the farthest process was taken, to merge the two sessions.

At that most interesting point in our history the very question which is raised by the Senator from South Carolina came up, and

it was deemed conclusive that all questions as to there being a recess were set at rest by the two sessions being merged, the one immediately succeeding the other. What was good law then is good law now.

I am glad the Senator has introduced this matter. I do not agree with him, perhaps, in what he intends to invoke in the way of similarities between persons at that time and this; but the occasion was a great occasion, an important occasion, and it seems to have been settled that if the two sessions were merged, nobody, not even a refractory President, as I believe there was at that time, who took great responsibilities, would for a moment intimate that there was a recess, an instantaneous recess. That seems to have been settled by the precedent which the Senator from South Carolina has invoked, and I am very glad he invoked it.

Mr. MITCHELL. The Senator from South Carolina has not told us what became of the resolution.

Mr. TILLMAN. They passed it. The resolution was passed unanimously merging the two sessions and adjourning the first session at 12 o'clock, when its successor met immediately, just as we did here at the expiration of the special session called to meet on the 9th day of November.

Mr. HALE. Yes.

Mr. PLATT of Connecticut. But in our case there was no resolution of adjournment.

Mr. TILLMAN. The two sessions went together, as they contended, and the law was settled, as the Senator from Maine has said; at least, it appears to have been settled, because the President took no chance, and nobody contended that there was a possibility for him to make an appointment between the second of time of the adjournment of the one session and the convention of the other. I can not see how there can be any difference of opinion here as to the final result.

Mr. HALE. If the Senator from South Carolina will allow me, they were making and were engaged in a hand-to-hand fight with the then President.

Mr. TILLMAN. Undoubtedly.

Mr. HALE. They wanted to take the measure that would be most absolutely conclusive as to giving him an instant when he could exercise his appointing power; and the method they took was to merge the two sessions.

Mr. PLATT of Connecticut. Will the Senator from South Carolina permit me?

Mr. TILLMAN. Certainly.

Mr. PLATT of Connecticut. I think the Senator misunderstood the remark I made in my seat. I called attention to the fact that I supposed that Congress was adjourned by resolution of the two Houses, and that we had no such resolution. I do not claim that it makes any difference. But there was that difference in fact.

Mr. TILLMAN. We adjourned at the expiration of the extra session on the 7th day of December just passed. They passed a resolution adjourning at 12 o'clock. There was a proposition to adjourn at 11, then at half past 11, but Mr. Sumner and Mr. Sherman both contended that they did not want to give the President the opportunity of five minutes or one minute in which to do anything which might pester them afterwards, and they preferred to prevent an improper appointment rather than to undertake to undo it afterwards or to apply the corrective or the remedy.

Mr. PLATT of Connecticut. I think perhaps the case now is stronger than that was, because that Congress passed a resolution of adjournment. It was passed by the two Houses of Congress. In this case no resolution was passed. The Senate simply was declared to be adjourned just a moment before 12 o'clock.

Mr. TILLMAN. I was not here during the interesting contention, which I saw mentioned in the papers, when an effort was made by somebody somewhere else to make us do business according to other methods than our own, and the unhappy controversy as to whether or not the Senate should remain in session because other men wanted the House to remain. But I notice that we did not adjourn and that we did not vote and that we proceeded on the even tenor of our way and that the Cuban reciprocity bill became a law in due time. But it was not born before the Senate got ready that it should be born.

The only difference I can see in the situation then and now is this: At that day and time there was an overwhelming majority, two-thirds and more, considerably more than there is now, of the same party as the President, and who had elected him Vice-President, and of course had to acquiesce in his accession to authority upon the death of Mr. Lincoln. They took these steps to hedge him about, to halt him, to stop him.

Now, the President has this large majority behind him, willing, apparently acquiescing in all his acts, indorsing them, approving them, applauding them, urging some of them perhaps. There is the difference.

So far as this little case of Crum is concerned, Crum might be the most important officer in the United States Government. My

friend from Wisconsin is very prolific in suggestions that great harm might come in the case of the head of the Army. Suppose justices of the Supreme Court were appointed under these circumstances of a constructive recess; that there was a case involving most vital interests before that court, and that the court was evenly divided, with these new men going in and holding the balance of power and being able to turn around the law in its interpretation, what harm could come?

I am only giving that as one of the possibilities, and my purpose, as I said in the beginning, is not to call attention to the necessary parallel in the minds of some, or to the possible dangers; but I am endeavoring to keep a precedent from being established. I am endeavoring to keep the Senate, in a trivial cause, one that has not and can not work any harm, from allowing its authority and the accepted interpretation of the Constitution to lapse; from giving the temptation to some usurper hereafter, or the excuse to some usurper hereafter, to say, "Why, in the Administration of Mr. Roosevelt this was permitted. It was passed over by the Senate, and thereby acquiesced in; and it is all right!"

We all know what a precedent in law is. Precedents are very, very troublesome things, and I, in my feeble way, have tried to call attention to what I consider a very grave constitutional question. While in its present shape it works no harm and can work none, yet if we do not now stop and have the Senate declare what it knows and means to be a recess, what it considers the power of the Executive in making appointments during a recess and issuing commissions thereafter, we will in the future, or our children will, come to that day when it can be said sadly:

It is the little rift within the lute
That by and by will make the music mute,
And, ever widening, slowly silence all.

We Senators here have grave responsibilities. We are intrusted with the liberties of this Government and of its orderly constitutional administration. Let us not, in the mad haste to give approval to this man or that, for supposed party necessity, ignore this little thing now. Let us stop it.

Mr. HALE. Now, let me interrupt the Senator for a moment. The Senator has not succeeded—I will not put it in that way, for I know he did not want to bring out from this side any expression of a recognition of this new proposition that there was a constructive recess when the two sessions merged. On the other hand, everything that has been said upon this side of the Chamber is in dissent from it. No Senator on this side has, whatever may be his partisan feeling, indicated it. I think, with the Senator from Connecticut, that the present case is even stronger than the case in 1867, to which the Senator has referred.

I say again, I do not know of any Senator who adopts or proposes to adopt or act upon the suggestion that here was a constructive recess upon which the President might act as if it had been a longer recess.

The Constitution does not deal with surprises and evasions and subtleties. It has been found on an examination of the records that the nominations—Mr. Crum's, General Wood's, and others—that were sent to the actual session, the present session, the regular session, were not sent in as recess appointments. If the Senator will go back he will find that these same appointments that were made after our adjournment in March were afterwards sent in at the extra session: that they were sent in in November as recess appointments. That the Senator does not object to?

Mr. TILLMAN. Oh, not at all. That is the law.

Mr. HALE. That is the practice.

Mr. TILLMAN. It is customary.

Mr. HALE. That is the practice. It is the law. Now, the appointments that were sent in at this session, after the two sessions had been merged, the appointment of Mr. Crum, of General Wood, and others, were not, as I understand from an examination which has been made of the records, sent in as recess appointments, but they were sent in in the manner suggested by the Senator from Virginia, as regular appointments.

I started, when I first interrupted the Senator, by saying that I did not know that the President had committed himself to this doctrine of a constructive recess. His appointments, his nominations—that is the technical word—sent to the Senate at this session do not assume to have been sent in as recess appointments. They are sent in as new appointments.

Now, the question as to who takes possession of the office and gets the salary—

Mr. TILLMAN. If the Senator will allow me, do I understand him to assert or to only express the hope that these appointments are of this character?

Mr. HALE. The papers show—

Mr. TILLMAN. The papers show the contrary, at least the letter of the Secretary of the Treasury to me, and the papers in the possession of the executive clerks will demonstrate whether I am right or not.

Mr. HALE. I have not made the examination, but it has been

stated to me during the debate that those papers have been looked up and it is found that the appointments sent in at this session were not sent in as recess appointments but as new regular appointments; and I was going on to say that if that be so—

Mr. TILLMAN. I deny it, upon the authority of Mr. Shaw, as far as Crum is concerned.

Mr. HALE. I do not make the statement—

Mr. TILLMAN. I further deny it from the fact that Mr. Crum is now in office, and he could not hold it a moment after the expiration of his commission unless he had been given a new one, and he could not be given a commission while the Senate was in session. So it was a recess appointment.

Mr. HALE. I have not said that I have examined the papers, but I have been told that the appointments which were made at this session when sent in to the Senate (and an inspection will easily settle that) were not sent in as recess appointments but as original appointments. Now, I am not prepared to say that that is true. It has been so stated here, and it can easily be settled by looking at the original papers.

If that be true, the only question to come up will be as to who is entitled to perform the duties of collector during the time that is now going on—whether the new appointee or the deputy collector. If the new appointment was not sent in as a recess appointment, if the new appointee claims that he has the right under the proposition that there was a constructive recess, the whole question will be fought out before the Comptroller, who will decide upon the whole law, and, as I have said, I have no doubt that that officer, who is a very able and a very worthy man, of the highest integrity, will make short shrift of the proposition that there was a constructive recess. But it will be settled by him and by nobody else.

Between this time and whenever the resolution will come up again—for it will go over at 2 o'clock for the present—an examination can be made as to what the appointments were that were sent in.

Mr. PATTERSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Colorado?

Mr. TILLMAN. I had hoped to get the resolution acted on, but that will not be the case if the debate continues.

It is a very interesting and a very important matter, and I want all the light I can get on the question. I know the Senator from Colorado will shed some, and I yield to him.

Mr. PATTERSON. I think the question that is presented by both the Senator from Maine and the Senator from Wisconsin has been in effect decided by the Supreme Court of the United States—not in a case that is almost parallel to this, but in a case that rested upon a statute whose language as to the termination of an office is identical, I think, with the language of the section of the Constitution that is under consideration. The decision went as to the responsibility of sureties on the bond of a collector, and without taking the time now to read the entire case, I will simply suggest the name of the case, so that other Senators may examine it.

Without undertaking to read it, I will state, briefly, what the facts were. The question arose in an action of debt on a collector's bond. It is the case of *United States v. Kirkpatrick*, 9 Wheaton, 720-738. Mr. Reed had been appointed to the office of collector, and the name of the surety was Kirkpatrick. The collector was appointed to the office by the President on the 11th of November, 1813, and by the terms of his commission he was to hold his office during the pleasure of the President and until the end of the next session of the Senate of the United States, and no longer. Early in the year following his appointment, in January, 1814, the President sent in his name, making a second appointment of the same person. He continued in the performance of the duties of his office, proved to be a defaulter, and an action was brought by the Government against the principal and the sureties on the bond.

One of the defenses that was made was that he could not be responsible on his bond for acts that were done after the termination of the session of Congress to which his nomination had been sent in. The judge of the trial court held that he could be, as his possession of the office continued. He gave no new bond when his second appointment was made and confirmed. The Supreme Court reviewed that proposition, and the language of the Supreme Court it seems to me will place it more clearly before the Senate than I could in the use of my language. The decision was rendered by Mr. Justice Story. I will read about a page:

The act under which this appointment was made authorizes the President, in the recess of the Senate, to make appointments by granting commissions, which shall expire at the end of their next session.

That is practically the language of the Constitution.

The first commission is, as has been already stated, in conformity to this provision of the act, and is, by express terms, limited to continue to the end of the next session of the Senate, and no longer.

The commission used the words "and no longer."

It follows, therefore, both by the enactment of law and the form of the grant—

Replying, of course, to the commission—

that the first commission must have expired of itself at that period; and, as the next session of the Senate ended in April, 1814, that is the utmost extent to which it could reach. The bond in question was given with express reference to this commission; and its obligatory force was, consequently, confined to acts done while that commission had a legal continuance, and could not go beyond it; and here would have been the natural termination of the liability. But in the meantime a new appointment was made by the President, with the advice and consent of the Senate, and as soon as that was accepted by the collector it was a virtual superseding and surrender of the former commission. The two commissions can not be considered as one continuing appointment without manifest repugnancy. The commissions are not only different in date, and given under different authorities and sureties, but they are of different natures. The first is limited in its duration to a specified period; the second is unlimited in duration, and during the pleasure of the President. If the latter operated merely as a confirmation of the former, then it confirmed its existence only during the original period fixed by the law. But such an effect is not pretended, and would be irreconcilable with the terms and intent of the commission. It has been suggested that the practice of the Government has been to consider such commissions as one continuing commission. But whatever weight the practice of the Government may be entitled to in cases of doubtful construction, it can have no influence to change the clear language of the law. In short, if the nomination to and approval by the Senate was a mere confirmation, and not equivalent to a new appointment, there was no necessity for the second commission; and yet the argument supposes that it could not be dispensed with, for if no commission had been issued the first, by its own limitation, would have expired.

It seems to me that this case establishes this proposition at least, beyond any question, that where an appointment is made under language such as was used in this law and such as is used in the section of the Constitution that has been read, the appointment or the possession of the office must absolutely end with the arrival of the period at which the commission expired under the law, and that time is at the expiration of the session of the Senate, if the appointee has not been confirmed.

Mr. PLATT of Connecticut. There is no question about that.

Mr. PATTERSON. Now, if his bond would not continue after the expiration of the session of the Senate, if his bondsmen would not be liable for malfeasance in office after the expiration of the session of the Senate, then surely we may properly deduce that he is not permitted to perform the duties of the office, but that that office is vacant, its duties to be performed by some deputy or some other person until, an appointment being sent in during the session of the Senate, the Senate has confirmed that appointment.

Mr. HALE. If the Senator will allow me—it is almost 2 o'clock—I think that is law and unquestioned law, and I am glad the Senator has brought that decision here. I want to look at it still further. It will be found, I think, on a complete examination that that is a clear assertion of unquestioned law that has been recognized ever since, but I doubt whether it reaches the precise conditions under which we find ourselves. However, there will be an opportunity when the resolution comes up again to go more fully into that question.

Mr. TILLMAN. Mr. President—

The PRESIDENT pro tempore. The Chair lays before the Senate the Calendar of General Orders.

Mr. TILLMAN. I ask unanimous consent that the resolution may go back on the table, subject to the same call for future discussion. In other words, I do not want it to go to the Calendar.

The PRESIDENT pro tempore. It would go to the Calendar unless the Senate otherwise ordered.

Mr. TILLMAN. I ask unanimous consent that it shall remain on the table, subject to the same rights it has had heretofore.

The PRESIDENT pro tempore. The Senator from South Carolina asks unanimous consent that the resolution shall lie on the table without prejudice. Is there objection? The Chair hears none.

RELATIONS WITH NEW GRANADA OR COLOMBIA.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution which will be stated. The Chair is assuming unanimous consent whenever he lays this resolution before the Senate.

The SECRETARY. Senate resolution 73, by Mr. GORMAN, calling upon the President for certain information touching former negotiations of the United States with the Governments of New Granada or Colombia, etc.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. DOLLIVER] is entitled to the floor.

Mr. DOLLIVER. Mr. President, I have intended for some days, if I could get an opportunity to do so, to submit to the Senate some observations on the questions which have been debated in connection with the resolution of the Senator from Maryland [Mr. GORMAN]. I have listened with patience and with great instruction and profit to everything that has been said. A good many speeches have been made, none of them irrelevant to the question and many of them full of research and of learning. I have found pleasure in listening to them all, although I am bound to confess that some of them were a little long for the ordinary uses of a world like this.

The subject-matter of the debate is not new to anyone. Among

my first recollections of public questions was the project of the Nicaragua Canal, and speeches upon that subject made by the honored President of the Senate [Mr. FRYE], then a Member of the House of Representatives, at the beginning of his great and useful public career. When I first came to this Capitol, whenever I wanted to secure a sense of repose and calm, I used to wander over to this Chamber and seldom failed to hear my honored friend from Alabama [Mr. MORGAN] impressing upon the Senate and upon the world his ideas of the Nicaragua Canal.

I never heard a word spoken or said that did not appear to me to be wise and reasonable; and yet I never saw in all my contact with the outside world that anybody in the United States not in Congress appeared to take the slightest interest in the canal question, ably and fully as it was presented during a whole generation. I confess that it made very little impression upon me.

None of us probably ever saw a moment when we did not think that some time and somewhere and in some way a canal would be dug across the Isthmus. I never took any acute interest in the subject, and never met anybody else who did, until the occasion of our intervention in behalf of the colonies of Spain, when Captain Clark, of the *Oregon*, under orders, left Mare Island and steamed down one side of South America and up the other just for the luxury of getting in two or three shots at the *Cristobal Colon*.

From that day the isthmian canal was already in sight. From that day it has been a live question. The argument for the canal has interested everybody. It may even be described as having become a burning question, as many gentlemen certainly on the other side of the Chamber can testify in their present contact with their constituency.

It never seemed to make much difference to me whether the isthmian canal was dug at Nicaragua or at Panama until the last session of Congress. I confess that I was in favor of digging it at Nicaragua, because I had never heard anybody else mention any other place to dig it, and I supposed, as everybody else did, that the ground at Panama had already been occupied by other people.

My convictions on the subject of the Panama Canal date from the morning when somebody, I suspected at the time the distinguished Senator from Ohio [Mr. HANNA], whose credentials of reelection to the Senate, read in the Chamber this morning, have brought gratification to our hearts, hung upon the wall there a map of the Isthmus of Panama, and I confess, without any intentional disrespect to speeches long or short, that that map did more to convince the Senate and to convince the world that we had been seeking to make a canal at the wrong place on the Isthmus than all that has been spoken in debate in these thirty years.

Nearly everybody bases his practical views of things primarily on his theology, and the moment I saw that map, indicating the coast line and the lay of the land at Panama, it appeared to me to be absolutely conclusive that the good Providence which is above us, if He ever intended the canal to be built there at all, intended it to be built where the Isthmus is 49 miles wide and not to be constructed where it is 183 miles wide.

I do not believe that any argument, any report of engineers, any inherited enthusiasm on the subject could disturb the opinion of anybody who made a study of that map hanging on the walls of this Chamber. From that day to this the practical question is whether the canal shall be built at Panama or not built at all. I confess that, in common with the people of the United States everywhere, I have acquired not only an interest but an earnest zeal for having the isthmian canal dug, and dug promptly, without further delay.

A good many people think that the Government of the United States has been engaged in very unbecoming and unseemly performances of an underground character at Panama. I have never even taken an interest in those suspicions which have been scattered broadcast over the world. The very nature of the subject makes it morally incredible that the people of the United States should desire to do anything either by indirection or by subterranean methods of any kind.

We are not doing there a thing altogether for ourselves. When I come to meditate upon what we have in hand there, it appears to me that we have placed the Republic of the United States upon a moral level the like of which has never been occupied by any nation in the whole history of the world. We are proposing to take our own money, to employ our own labor, taking our own risk, and constructing at Panama a public work, not at the cost of millions, but of tens of millions, and it may be of hundreds of millions, and having done that, we propose to donate it to the human race and dedicate it for all time to come to the uses of the world's commerce and business upon exactly the same terms for its use that we claim for ourselves.

In view of a situation like that it appears to me to disparage and to impeach the very national character to suppose that anybody, from our highest public official down to our lowest, would

care to smirch that transaction with any questionable methods of procedure. Therefore, I for one have been sorry that this great discussion which has gone peacefully and solemnly on now for nearly seventy years in the United States should, in the last stages of it, become the subject of a mean and petty personal and partisan contention.

I have never seen a minute when I attributed to a President of the United States, whether he belonged to my own political faith or the faith of our adversaries, a dishonorable or low motive in the transaction of the business of the people of the United States. It is one of the guaranties of our form of government, one of the monuments of our national character, that from the first President to the last, though some have been great and some not entirely great, we never have had a President whose motives could be successfully impeached at the bar of American history.

It is to be regretted that in the midst of learned discussions, such as have been made here by the two Senators from Colorado, discussions in no sense wanting in dignity and in the respect which belongs to this place and to the coordinate branches of the Government, there should have been noises heard here and voices raised here altogether out of character either with the subject or with its surroundings.

I listened with a good deal of humiliation to speeches charging that the President of the United States had made the revolution at Panama unanimous by conducting it himself. I heard a Senator say in this Chamber that in what has been done every act of the President has been in violation of the Constitution, of the law, and of international law, and of the treaties of the United States; and, more shameful and humiliating than anything else, men have stood here and excused the mobs which pursue men without the process of law, and the anarchists arrayed against all government and against all law, by the example of contempt for law set by the God-fearing, patriotic President of the United States.

I do not propose to stop to answer such a thing as that. I merely allude to it to indicate how far mere partisan contention may belittle a great controversy even in the Senate of the United States. I suppose it is true that wherever speech is free and wherever printing is free our form of government is exposed to that infirmity and to that scandal. Certainly everywhere in the world where there has been free government the arena of partisan politics has been filled all the time, or nearly all the time, by the dust of partisan contention and personal abuse.

The parliamentary annals of Great Britain indicate that that was always so there, especially in the last century, and if a man will read the present discussions going on upon the hustings of England he will perceive that it is still so there. It certainly has been so here from the very beginning of our affairs. Not a single President of the United States has been able to escape, not even Washington, that serene and august figure which stands at the very beginning of our national life, nor Lincoln, nor Grant. Some of our Presidents have been compelled to bear the double misfortune—as in the case of Mr. Cleveland—the misfortune of being defamed first by one political party and then by the other.

I would not intimate that the safety of our institutions or even the dignity of the Senate require any abridgment of the right of speech or of the right to print which belongs to our inheritance and is a part of the body of our liberties. I reckon that however grievous the afflictions have been, arising out of the abuse of these rights, infinitely worse grievances would arise out of their abridgment, certainly in the Senate of the United States.

I have alluded to the matter only for the purpose of bringing into view a higher ideal of political life, an ideal which I hope will one day enable us to hold the little differences of our partisan opinions in an atmosphere of gentlemanly kindness and good will.

The President of the United States is accused of violating every obligation which it is his duty to enforce and to observe. One Senator accuses him of violating the Constitution of the United States.

I do not intend to discuss that for two reasons. I have made up my mind that while I expect to keep up my study of the Constitution, reading as many law books as I can, and listening to as many arguments as my strength will bear on the subject, I never intend, unless under provocation that I can not now foresee, to buffet the Constitution of the United States about in a Senatorial debate. Others, abler men, will take care of that; others, with a more natural taste for it, can take care of that on both sides.

In this particular case I feel that everybody here is more or less relieved because one of the great constitutional lawyers on the opposite side of the Chamber, who I am sorry not to see present to-day, has already notified his constituents that, rather than change his convictions, he will retire from public life, and has distinctly omitted to charge that any violation of the Constitution has occurred in this connection. That being so, the Constitution certainly needs no guardian on this side of the Chamber to protect it against these imaginary infractions.

But we are told that the President of the United States has violated the law; and one Senator stands here by the hour pointing out that the Spooner Act has been violated. I was here when the Spooner Act was passed. I have read it again and again; but I confess a certain humility and timidity about offering myself as its interpreter; but I have come gradually to the opinion that if anybody is likely to understand what the Spooner Act means, the author of that act is the man to whom we should go with our anxious inquiries.

He is, as the Senator from South Carolina [Mr. TILLMAN] has just said, a great lawyer, and the author of that act probably approaches as near the area of competent interpretation of it as any man in this Chamber. When I heard him the other day take up that act, line by line, and prove, with such satisfaction to the Senate that everybody acquiesced in it, and with such conclusiveness to the other side that my honored friend the Senator from South Carolina, in a more or less panic-stricken manner, departed from the Chamber rather than be disturbed by any further demonstration of his error, I made up my mind that that act needs no defense here from anybody else.

Mr. TILLMAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. DOLLIVER. With great pleasure.

Mr. TILLMAN. I have always regarded my friend from Iowa as being a fair man, and he must recall the fact that under the constant appeals of the ticking of the clock and that shaking of the hand by the Senator from Wisconsin [Mr. SPOONER], which is so effective in a personal interruption, I had pledged myself not to speak and bother him any more, and that, when I went out, I announced that my departure was because I could not sit still and listen any longer to his wild vagaries without breaking my pledge.

Mr. DOLLIVER. And the Senator from Wisconsin rejoined, as you were passing through the door, that it was a very serious reflection for him that he had lived long enough to have his vagaries reprimanded by the Senator from South Carolina. [Laughter.]

Mr. TILLMAN. Which I did not hear.

Mr. DOLLIVER. Unfortunately you did not.

Now, Mr. President, the Spooner Act looks to me plain. It may not be. We had here one day a canon of interpretation of the Constitution of the United States that struck me as very interesting and very novel.

A Senator stood up here and said that where the Constitution was difficult to understand, where it was complex and appeared ambiguous, he was willing to take the opinions of our fathers and the precedents of the national history upon it; but where it was so plain that almost anybody could understand it he proposed to take his own opinion, notwithstanding it might not follow the judgment of our ancestors or the practice of the Government. It looks as if the Spooner law is plain enough for nearly anybody to understand; but if there is dispute about it, if it is ambiguous, if there is an element of uncertainty in it at all, when I want to get at the real meaning of it I propose to sit down with the distinguished Senator from Wisconsin and ask everybody to keep quiet until he can give his views of what he meant by the language of that law.

That law required the President to negotiate with Colombia for an isthmian canal. Men have discussed that subject as if the main object of that law was to get up a negotiation with the United States of Colombia, and hold us to that Government even if the subject-matter of the treaty passed within another jurisdiction altogether. If I understand it, the object of that law was a canal, and not a tête-à-tête with the foreign minister of Colombia, so that the moment the canal zone passed into the hands of Panama the negotiation followed the subject-matter and not the name of the countries.

No man can take this record of the proceedings of the Colombian Government in dealing with this treaty and say that at any time in that negotiation, from the time the treaty was sent to the Colombian Senate until the extraordinary session of the present Congress convened, the President of the United States could have turned aside to deal with Nicaragua without a violation of the law and a flagrant disregard for the recognized and well-settled policy of the Government of the United States in locating the isthmian canal.

So that when a man bases his criticism of the President on the ground that he treated the Spooner law with contempt, it seems to me that he needs to more thoroughly investigate the circumstances which surrounded this treaty with the United States of Colombia.

Again, it has been said that the President has trampled upon international law. If that charge were true, it is a grievous charge to make against the Government of the United States, because the

peace of the world, the orderly progress of the world, the great interests of civilization, require a careful observance of the recognized principles of international law; but if I have got hold of the right text-books, international law is not as exact a science as there is in this world.

International law, if my researches have given a correct light on the subject, is rather a statement of what the nations of the world from time to time have done rather than a codification of precepts applicable to all cases and under all circumstances.

If the President violated international law, how did he violate it? It is said that he recognized an immature and what has been described here as a comic-opera republic in Panama.

It is true that the President of the United States recognized the independent existence of the new State of Panama, but, in my humble opinion, it is not true that in doing that he violated any international law. Again and again it has been pointed out in this debate that the United States has in times past recognized—without formality or delay—new states, the result of revolutions and other political convulsions. The fact is that the motive that governs a nation in recognizing a new state is essentially a motive lying in the heart and conscience of that nation itself, and has little if anything to do with any precepts of international law.

We recognized the French Republic after the Franco-Prussian war, notwithstanding the fact that the French Emperor had 100,000 veteran soldiers in the field ready to defend what remained of the Government of France, and yet Mr. Washburne said distinctly that he felt the necessity of immediately recognizing the French Republic, though it had not taken on any international relations at all and was menaced by the remnants of the imperial army of Napoleon and also in the streets of Paris by the mob proposing to reestablish the Commune.

He recognized that government almost instantly under direction from our State Department, first, because of our sympathy with republicanism in France, and, second, because the President's recognition was necessary in order to prevent the people and Government of France from being plunged into an interminable civil conflict, beginning with a reign of terror in the streets of Paris.

We recognized almost instantly the new Government of Brazil. I remember very distinctly meeting one night the minister from Brazil, representing the benevolent and amiable Emperor Dom Pedro, and the very next night the minister appeared at the banquet of the Loyal Legion in this city, bearing the commission of the new Republic of Brazil. Nobody said that was incorrect or a violation of international law. Why? Because our sympathies were with republicanism in South America, and we seized the first opportunity, upon the deportation of Dom Pedro, to do what we could to make permanent the new republican régime at Rio de Janeiro. There has arisen on this side of the water an American international law applicable to our own hemisphere.

We were not in much of a hurry to recognize the new states of South America. I have taken the pains to examine the old debates and find out what motives were at work to prevent the Congress of the United States from plunging into a recognition of the South American republics. Not even the eloquence of Henry Clay could get a minister accredited to one of those states created by the most favored and successful of these revolutions. Year after year passed, and nothing was done.

Señor Romero, who for so many years honored his country as the minister here from Mexico, in an article in the North American Review many years ago, pointed out that the United States had contributed little or nothing to the independence of the Latin-American states either on our continent or in South America. The reason of it was that no interest was involved, no motive was involved, and no service could be rendered to mankind by a premature recognition. They were feeble; they were without organization, without political experience, and it was thought better by the level-headed men who managed our Government in those days that those people should be left to fight it out.

One man said, I remember, in one of those debates: "You can not give a nation liberty. They have got to fight for it and bleed for it and endure all the vicissitudes of the struggle for national life." Therefore the wisest men we had said: "Let them struggle; let them organize; and at the end of their struggle, having won their independence for themselves, they will have a stability, an anchorage, and a permanence in the world that they never could have if we started out by intervening in their behalf and presenting them their liberty at the point of the guns of our own Navy;" and I believe they were absolutely right about it.

So there has grown up on this hemisphere an American diplomacy in respect of the right of recognition of revolutionary states. We have had more experience in that matter here than they have had anywhere else in the world. We have had for the last seventy years an almost daily atmosphere of revolution in our relations

with the struggling little republics of South and Central America, and we have found out more than any other nation about the law of recognition as applied to those states.

I undertake to say, having carefully studied the history of our diplomatic relations with South America, that no violence was done to any tradition or precept of our international history in the act of President Roosevelt of last November.

I am not speaking entirely on my own authority in saying that we have an international law which may be described as strictly American, applicable to this hemisphere and especially to the revolutionary crises which have claimed the attention of our State Department now for nearly seventy-five years.

I find that away back in 1856 Franklin Pierce, who, while he may not have been a very great man himself, had one of the greatest men of our national history for Secretary of State, pointed out distinctly that our diplomatic relations with South America were unique in our diplomatic record and history.

Here is his message sent to Congress May 15, 1856, curiously enough upon this very subject, in which he discussed the question that had bothered him about recognizing a couple of ministers from Nicaragua who had appeared in this town about the same day.

One of them was an American adventurer who had gone down there with Walker's expedition. They had hurriedly organized rival governments, and he had started out for Washington. About the same time the first got here another man appeared, claiming to be the representative of the actual de facto Government of Nicaragua; and the President of the United States did not waste a minute to inquire which was the actual representative of the de facto Government of Nicaragua. He looked the two men over, and, as we had exigent business to transact with Nicaragua, he picked out the native of Nicaragua, and, without inquiring at all into the character of his Government or his revolution, recognized him as the Nicaraguan minister to this capital. In reporting the proceedings to Congress, he said:

It is the established policy of the United States to recognize all governments without question of their source or their organization, or of the means by which the governing persons attain their power, provided there be a government de facto accepted by the people of the country, and with reserve only of the time as to the recognition of revolutionary governments arising out of the subdivision of parent states with which we are in relations of amity.

We do not go behind the fact of a foreign government exercising actual power to investigate questions of legitimacy; we do not inquire into the causes which may have led to a change of government. To us it is indifferent whether a successful revolution has been aided by foreign intervention or not; whether insurrection has overthrown existing government and another has been established in its place according to preexisting forms, or in a manner adopted for the occasion by those whom we may find in the actual possession of power.

All these matters we leave to the people and public authorities of the particular country to determine; and their determination, whether it be by positive action or by ascertained acquiescence, is to us a sufficient warranty of the legitimacy of the new government.

And then he goes on:

During the sixty-seven years which have elapsed since the establishment of the existing Government of the United States, in all which time this Union has maintained undisturbed domestic tranquillity, we have had occasion to recognize governments de facto, founded either by domestic revolution or by military invasion from abroad, in many of the governments of Europe.

It is the more imperatively necessary to apply this rule to the Spanish-American republics, in consideration of the frequent and not seldom anomalous changes of organization or administration which they undergo and the revolutionary nature of most of these changes, of which the recent series of revolutions in the Mexican Republic is an example.

Then he cites a circumstance which seems almost incredible, that in his Administration, in the course of a few months, he recognized successively five revolutionary governments in the Republic of Mexico—at the rate of more than one a month. If the rule which my friend the senior Senator from Colorado [Mr. TELLER] laid down, that a nation must stand off in a calm, philosophic way until it is determined by competent evidence that a proper organization of a state has been made, and that it has grown to that stability which enables it to discharge international obligations and to take care of internal affairs, the Administration of Mr. Pierce would have expired before that brilliant series of Mexican revolutions had passed into history.

And yet Franklin Pierce, acting under the advice of Secretary Marcy, recognized in the course of about four months five separate revolutionary governments of Mexico, one after another. Do you tell me that you have got to go back to Grotius and the old writers on international law to find precepts to justify a situation like that? I say it is nonsense.

The duty of this Government in respect to the revolutionary surroundings which we have had in Central and South America has been determined not by law written in Europe one hundred or one hundred and fifty years ago, but it has been determined year by year and step by step by what has occurred along our own coasts on this hemisphere.

So much for that. Again, it is said that the President of the United States entered into a sort of conspiracy with certain persons, most of them disreputable, for the purpose of establishing

the new Government of Panama. I intend to speak about that, because I believe it is the most important question that there is in this discussion. Everything else is done, accomplished beyond revision or recall. Only debate remains—acrimonious disputation about the right or wrong, the credit or disgrace of the proceedings.

Mr. PATTERSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. DOLLIVER. Certainly.

Mr. PATTERSON. I want to call the Senator's attention to the fact that all the cases he has cited to the Senate in his speech up to this time have been cases in which the United States has recognized de facto governments where there has been a revolution of the government itself, and no case that he has cited is a case of secession or rebellion of the inhabitants of what is simply a part of the country.

Mr. DOLLIVER. That is very true, Mr. President.

Mr. PATTERSON. Just one moment. That is the distinction that has been made here by every Senator who has spoken in opposition to the treaty. It is the distinction that was made by President Roosevelt in his message to the Senate admitting, as he did, that he did not proceed in this case according to the rules of international law.

Mr. DOLLIVER. Mr. President, what the Senator says is true. I have not been undertaking to dispose of this case of Panama upon these precedents. I have cited them for the purpose of escaping the burden laid upon the present Government of the United States by these precedents in respect to recognitions which have been cited by the senior Senator from Colorado [Mr. TELLER].

Mr. PATTERSON. Just one moment—

Mr. DOLLIVER. And I undertake to say that our situation here has created variations of the ancient rules of recognition which must be vindicated, not by the books, but by the uninterrupted practice of the Government of the United States.

Mr. PATTERSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. DOLLIVER. With great pleasure.

Mr. PATTERSON. I want to say to the Senator from Iowa that there is really no contention between himself and the opponents of this measure as to the rules of international law which he lays down. Nobody disputes where there is a revolution in a government by which some other party, or by which some other ruler, will take possession of that government, that both in Europe and in this country that new government may be recognized, and it may be recognized as often as revolutions of that kind occur.

So when we recognized the different governments in Mexico—five within a few months—they were all recognized under well-established principles of international law, observed both in Europe and in this country, and it is not American international law or an American law which the Senator has been citing. It is the international law that is observed by all civilized nations.

Mr. DOLLIVER. Now, Mr. President, how does my friend from Colorado account for the fact that all the important nations of Europe, within an incredibly short space of time and before the organization of this State of Panama, have joined us in its recognition?

Mr. PATTERSON. Simply because, Mr. President, the United States set the pattern. The United States has grown so strong and powerful, so many nations of Europe are anxious to acquire the favor of the United States, that they are apparently willing to follow in the footsteps of the United States when it is willing to set the pace.

Mr. DOLLIVER. Mr. President, has it come, then, to this, that international law in Europe consists in following the blunders and crimes that are committed by the United States?

Mr. PATTERSON. I would suggest also to the Senator, if he will permit me, that European nations recognize the fact that it was the United States that made that new Government; that it depended upon the United States; that without the bayonets and guns of the United States it could not exist; that with them it was absolutely impregnable, and they could not do otherwise.

Mr. DOLLIVER. Therefore they shut up their international law books and went in?

Mr. PATTERSON. That is precisely what they did.

Mr. DOLLIVER. I doubt that very much. I would rather believe that they studied the situation—that they studied the history of this case, and coming to the conclusion that the United States had acted with wisdom, with prudence, and in strict accord with the law of nations, they gladly and cheerfully gave their consent to what had been done.

But I will go further. I claim that nobody can wisely and discreetly discuss this question who treats it altogether as a question of law. I hold that it is a question of fact, and if what I

say to-day has any value to anybody it will be from the effort I will make to point out some facts that went before the recognition of the little Republic of Panama.

My friend from Colorado asked a question here yesterday which nobody had the time to answer, because nobody desired to add to his labors and his troubles. He said: "Does anybody pretend that the Republic of Panama could have come into existence without the assistance of the United States or that it would last a minute if the naval forces of the United States were withdrawn?" Now, that is a very practical question, and in my judgment is strategic and decisive of this whole situation.

I hold that this revolution in Panama is several years old. I hold that the sympathies of the whole world should have years ago been drawn to this unfortunate little Republic of Panama, and that the United States, instead of being subject to blame for taking that little community by the hand and helping it out of its troubles, is entitled to the applause not only of our own people, but of the people of the whole world.

I go further. I say that if the United States had kept out of Panama the Republic of Colombia would have lost that most precious of its possessions a good many years ago, and I do not hesitate to say here, without intending to speak a harsh word about the unfortunate people of the United States of Colombia, that the American people ought to be thankful that, after fifty years, the era of our partnership with the anarchy and misgovernment of the Colombian Republic has come to an end forever more in the Province of Panama. So that I hold this to be a question of fact rather than a question of law.

My friend asks, "Would that Republic have existed if we had not helped it?" There is every reason to believe that it would.

I hold in my hand a religious review which was presented to me early in this discussion by the venerable Senator from Alabama [Mr. MORGAN], whom I am sorry not to see in his seat just now. But his absence enables me to say of him a thing which I might be deterred somewhat from saying if he were present, and that is this:

He stands here in his old age one of the historic figures connected with this canal controversy. He may not be the man who began the discussion, but for nearly a generation he has kept it up. No man has ever exhibited, within our knowledge, any such marvelous industry, energy, and sagacity as he has put into the argument for the Nicaraguan canal. Day and night he has labored, not with the assistance of others, but personally, often with his own pen writing these speeches which have become the chief part of the agitation which has resulted in unifying public sentiment in the United States in favor of the canal.

I regret more than I can say that he was disappointed in his own personal ambition in respect to the route that was finally chosen. But that does not prevent me from adding that long after the little controversies of this hour are forgotten his name will be connected in immortal reputation with the isthmian canal, wherever it is built, by the people of the United States.

And so I pick up this quarterly review, printed at Nashville, July, 1903, in which he discusses the Colombian Government in its relation to the Republic of Panama. It is a long article, filled with the evidences which have become so familiar to us of his indefatigable industry and research. He shows that for more than a generation the State of Panama has been plucked, robbed, oppressed, and wronged by the so-called Government at Bogota. He shows that that institution for years has been a despotism, a dictatorship, and an organized anarchy.

My friend, the Senator from Wisconsin [Mr. QUARLES], day before yesterday, pointed out from the reliable comments of an American minister and traveler in the United States of Colombia just what kind of an institution the Colombian Republic is and has been, and he was answered by the Senator from Colorado by saying that Mr. Scruggs had written about the Colombian Republic very much as a man would write if he confined the history of the United States to the race riots in the South and the railroad mobs in Chicago a few years ago.

I do not believe that anybody can take up that book and rise from the perusal of it with any enthusiastic sympathy left on account of the misfortunes that have fallen upon the Colombian Government. Fortunately we know exactly what it is. We know first that it is a dictatorship. We know the number of constitutions it has had. We know that a constitution is brushed away at every turn in the political tide in Colombia. We know that its people have no participation whatever in the Government. We know that less than 2,000 men constitute the Government of Colombia, and that, there intrenched in the capital at Bogota, they have been cheerfully consulting together as to the possibility of laying still further tribute upon the Treasury of the United States.

In 1900 a revolution broke out in Panama which lasted until practically the beginning of the present revolution. We have the history of that revolution. The Senator from Alabama [Mr.

MORGAN] has preserved it in this magazine article. It lies in the records of the Navy Department and in the records of the State Department. We know exactly what it is. We know that for three long years the Colombia dictatorship tried to quell the revolution in Panama, and at the end of that time, by the friendly offices of the United States, were enabled, by bare good fortune, to compromise with it.

And when my friend asks me whether a revolution in Panama could have succeeded to-day, I say to him yes, and the only reason it has not succeeded for twenty years is because the Marine Corps and the Navy of the United States have been there, standing between the men fighting for their liberty and for their rights and the Colombian dictatorship at Bogota.

So, it does not require a man even to hate the President of the United States; it does not require a man to have his system so poisoned that he unconsciously has more sympathy with a foreign country than he has with his own; it does not require any morbid state of anybody's mind to understand the present revolution in Panama. It was not needful that the President should stimulate it. It was not needful that the Navy of the United States should participate in it. It was not needful that American residents there should help it along.

It is and for nearly a generation has been the continual and almost helpless expression of the effort of that unfortunate community to be free from the oppression which has its headquarters at the capital of the Colombian Republic.

How was this war against Panama, which began in 1900, conducted? The Senator from Alabama preserves here a military decree levying taxes to carry it on, a decree which he declares is the most cruel act ever performed in the name of a Christian government.

Their system of taxation appears to be simple. My friend the Senator from Wisconsin explained it, reading from a book written by an old minister of ours at Bogota, Mr. Scruggs. He was waived aside because it was not official. Here is the official decree levying taxes upon the Colombian people to conduct their war against the old revolution of 1900 on the Isthmus of Panama.

It consists of sending out gentlemen with a list of people in all the cities and towns and villages in the country, with an estimate of their wealth, and a proposition that one shall pay \$500, another \$1,000, another \$5,000, and another \$10,000, 15 per cent of which shall accrue to the gentleman who collects it, and if there is any hesitation about it he is directed to confiscate and destroy the property of the people on the Isthmus of Panama.

Our naval officers report that in obedience to that decree such of the well-to-do citizens of Panama who were able to get away fled to ships of foreign countries, and in that way were willing to sacrifice their entire property rather than submit to a despotism and a tyranny like that. And yet, men stand up here by the day reading international law, and inviting people to sympathize with the misfortunes that have come upon the Republic of Colombia.

I say again that such little sympathies as I have to spare are with that struggling community along the line of our right of way on the Isthmus of Panama, who for more than a generation have suffered the evils of bad government, and ever since its accession to the territory of the Republic of Colombia have been entitled to the sympathy and the good will of every civilized government in the world.

Was the Republic of Colombia able to overcome that insurrection? This record indicates that it was not. Let me read from the reports made from time to time by our naval officers, and especially the pathetic plea directed to the commander of our little fleet there, made by General Herrera, who was the commander of the insurrectionary army of Panama:

In a dispatch of March 22, 1902, Captain Reisinger writes:

"There is another element in this matter that may need consideration before anything else, and that is the turbulent tendency of the troops which have been brought here recently. These men have been operating in the south and in open country mainly, and the massing of them in the city causes considerable apprehension."

"I am informed upon good authority that the Government is getting very short of money, and unless the troops are paid there will be trouble, because the Government maintains no commissary, but pays the troops well, and they must furnish their own food."

September 15 he writes:

"SIR: I have the honor to confirm the following telegrams:

"September 10. Two thousand men surrendered to revolutionists at Agua Dulce on August 30. Revolutionists reported advancing near Panama."

"September 11. Government has occupied portion of land belonging to canal company's hospital, anticipating attack immediately, at Panama. This ship can not land force sufficient for the protection of American interests."

Thus the civil war raged, destroying life and property on the Isthmus and subjecting the Government of the United States to a continuous and increasing burden in keeping the transit across the Isthmus free from obstruction. In the very nature of the case civil war in Panama means the occupation of the line of transit, since practically all the people of the Isthmus live along the highway between the oceans.

And notwithstanding the fact that the United States by keeping the insurgents off the transit gave to the Colombian Govern-

ment what little military strength it had in Panama and Colon, yet the autumn of 1902 found the Government at Bogota imploring the United States to use its good offices to bring the insurrection to an end, holding out as an inducement to our Government the consideration that until peace was secured no progress could be made with the canal negotiations. This was shown by the following dispatch of our minister at Bogota:

BOGOTA, September 11, 1902.

SECRETARY OF STATE, Washington:

Minister for foreign affairs desires me to inform you that his Government would appreciate your good offices to bring about peace in the country, especially on the Isthmus, where the revolution is strong. This Government has no new terms to offer, but thinks your good offices may avail to induce revolutionists to accept terms heretofore offered, and thus prevent otherwise inevitable heavy loss of life. Minister for foreign affairs added: Not only is the question of humanity involved, but so long as the war lasts Congress will not be convened, and therefore the continuance of war will delay submission of the canal matter to Congress.

Minister for foreign affairs emphasized this last point as being well to present to your consideration.

HART.

It is no idle opinion of mine that but for the presence of the United States ships that revolution would have been successful. It is confirmed by the following report, made on the 13th of October, 1902, to the Secretary of the Navy by Admiral Casey:

I inclose a clipping from the Panama Star and Herald of October 12, 1902. In this connection I take occasion to inform the Department that I have refrained, as far as possible, from in any way embarrassing the officials of the Colombian Government, except so far as is absolutely necessary in my judgment to maintain uninterrupted and unembarrassed transit and to prevent the line of transit from being converted into a theater of hostilities. I shall decide such questions as the conditions may change from day to day, and when in doubt will consult the Department.

Further, in this connection, I have to inform the Department that I have been unable to learn of any effort on the part of the Colombian Government to crush the revolution in this district just prior to or since my arrival at Panama. On the other hand, it is my opinion that if it were not for the restraining influence of our naval force here Panama would fall an easy victim to the combined land forces and gunboats of the insurgents.

To which he added, on October 20, the following:

Judging from conditions now existing and from information I am able to obtain, there seems little prospect of a speedy termination of this strife. Panama and Colon are practically besieged; troops at neither place dare to go beyond their intrenchments. I firmly believe if our men were removed from shore the insurgents would be in Panama in forty-eight hours. I think the Government, therefore, is very willing that they should remain, making occasional mild objections, which really it does not mean shall be taken seriously.

Great things were expected on Perdomo's arrival; but as he came attended only by numerous generals, of whom there were apparently already a surfeit in the city, I fail to see how he can accomplish much.

It will thus be seen that upon the plea of the Colombian Government, itself entirely helpless to deal with the revolution, this civil strife was brought to an end by the friendly intervention of the United States for a peaceful settlement.

It will be interesting in this connection to read the pathetic plea of the insurgent commander, General Herrera, justifying the motives of his countrymen and uniting in the wish for peace.

The war with us—

He wrote to Admiral Casey—

is only an act of instinctive and vehement despair. It is a claim for life such as can not be considered to exist in Colombia under a government arbitrary in politics, economically, and in civil matters. Hence the constant desire of the revolutionists to lay down their arms as soon as they can secure something republican, something that they may secure for the country, something that they may draw the country for the state of oppression in all respects, which rendered existence intolerable and dark the future of the country.

For these reasons the revolutionists are ready to die, since what is suggested as peace is simply the replacing of the white for the red terror. Gladly and with enthusiasm did I receive and answer your esteemed communication of the 7th instant. In the mediation of yourself and of the United States I saw a prospect of true peace which might give forth the harmony of interests and the security of rights. But such a peace is not pleasing to our contenters; their ideal exists in the imprisonment of which the Caesars gave the example.

On the other hand, the mediation of the United States was for me the symptom and the proof of its respectful disposition respecting the sovereignty of the Colombian nation in the Isthmus of Panama, since in that manner it did away with any excuse or any justification for maintaining American troops on the line.

The so-called Government of Colombia through its obstinacy has rendered itself responsible before the nation for the officious guardianship which—why should I hide it?—hurts the feelings of those who know our rights, our duties, and our responsibilities as a sovereign and independent nation.

If, notwithstanding the incident I have mentioned, you should think the conference useful, I am ready to come to an honorable and just arrangement. I accept the mediation of yourself and the United States with full confidence and gratefully.

From other points of view and purposes the conference could fix the basis which might insure the construction of the canal by the United States, which is the universal desire of Colombians, a wish that is condensed into a national interest. If the private parties who have contributed toward your very generous mediation conclude that it is necessary to come to an understanding with me, I inform them that Aguadulce is my general quarters and the seat of the director of the war.

I am, etc.,

B. HERRERA.

It thus appears that in contemplating a cessation of that insurrection by a treaty of peace the thing about which the whole transaction revolved was the isthmian canal, which he says has not only been the long-time aspiration of the isthmian people, "but had been condensed into their chief national interest." And so under the direction of our Navy the insurrection of 1900, which

had raged in that Isthmus for a period of more than two years, was brought to an end, not by its defeat, but by a treaty of peace entered into for the sake of the canal, at the very moment of victory.

I have here the treaty, preserved in this article by the Senator from Alabama [Mr. MORGAN], and among the terms by which they agreed to stop hostilities and let the insurrection die was a proposal that the Colombian Government should immediately take up and dispose of the question of the isthmian canal. So they did. Not only without the help of the United States, but with our Government unfortunately in practical alliance with their enemies, and doing infinitely more to keep their victory away from them than the Colombian army had been able to do.

They did successfully maintain at the Isthmus of Panama an effective rebellion, lasting more than two years, which was finally compromised under the auspices of the United States by an agreement to immediately facilitate negotiations for the canal.

The Government of Colombia is in vastly worse shape now than it was at the end of that rebellion; poorer in money and other military resources.

So that when Senators offer the opinion that without the countenance of the United States the new Panama Government could not stand up and defend itself in its own territory, I put in evidence the report made by Lieutenant-Commander Culver to the Secretary of the Navy on December 13, 1902.

U. S. S. BANCROFT, COLON, COLOMBIA, December 13, 1902.

SIR: I have the honor to report as follows regarding an interview I had yesterday at Panama with Consul-General Gudgeon:

The consul-general states that political disturbances on the Isthmus can now be regarded as positively over for many months to come. All arms have been surrendered by the insurgents, also their gunboats; and it would take a long time for them to reorganize and reequip, even were they disposed to start another revolution. About 1,000 insurgents are in Panama fraternizing with their late foes—the Government forces.

For the first time in two years the military bands are now permitted to play in the public squares at night, and the people are allowed to be in the streets at all hours.

The Government forces are being slowly disbanded. Forty per cent of them are boys from nine to fifteen years of age. They are stationed at various posts along the route of the railroad, are filthy in person and dress and poorly clad, and appear like a rabble of children.

The consul-general states that, in his opinion, there is not the slightest need of a Government vessel either at Panama or Colon at this time, nor will there be for a long time to come. United States Consul Malmros, at Colon, is of the same opinion.

Very respectfully,

A. E. CULVER,

Lieutenant-Commander, United States Navy, Commanding.

THE SECRETARY OF THE NAVY.

Mr. President, there is a picture of military glory truly admirable. Yet this rabble of children was a band of military heroes compared to the garrisons which represented the sovereignty of the Colombian Government last November, when the citizens of Panama, without a dissenting voice, declared their independence, and wound up the military affairs of Colombia on the Isthmus of Panama with a few thousand dollars of Mexican silver.

Now, I say that it does not require any very large knowledge of what has been going on down there for the last twenty years to enable anybody to see that they had their own motives and their own reasons for their insurrection. So they all rejoiced when the President of the United States finally succeeded in getting the Hay-Herrera negotiations through. They watched with solicitude every step of the procedure at Bogota.

The testimony which has been preserved here in the correspondence of the Secretary of State indicates that their wisest men there knew exactly what would be the result if the negotiations failed. Men talk to me about the President of the United States stirring up this insurrection! The United States, with all its splendid power, could not have done a thing to stop that insurrection. The United States had intervened to prevent their success only one year before. They agreed to stop fighting when they were almost within reach of the city of Panama, on condition that the canal negotiation should be taken up. They laid down their arms.

They were not confronted by a very formidable adversary. I do not want to speak unkindly of the Colombian people and of the Colombian Government, not because I feel exactly right about them, but because it can do no good to continue irritations that have no material significance from this time forward in this discussion. I do not intend to go into the history of that negotiation at Bogota, but I will go into it far enough to say a word about our young minister at that capital.

I know him well; an Illinois boy, without particular experience in diplomacy, tossed by the accidents of our politics into a position which seemed to be insignificant, but which almost immediately became one of the points of interest under the spot light of the world's attention, and who in the midst of new duties and difficult surroundings has added a bright chapter to the history of American diplomacy and American statesmanship. I will say that in consideration for him.

But every step of that negotiation indicates what was going on at Bogota. At first nobody there cared anything about it. Nothing was said on the streets or about the halls of Congress or anywhere else. Nobody took any interest in it until these gentlemen in charge of that Government, these amiable people who are soliciting the sympathy of the United States against the people of Panama and that stricken Isthmus which connects two continents, until these cheerful politicians at Bogota looked over the Hay-Herran treaty.

They said, "Here seems to be \$10,000,000 coming to us." Every one of them knew that it was a gratuity. If they are enlightened, and everybody gives them the credit for that, they must have known that there is not a civilized community in the world which, having been approached by people able to put up the money for building a public work like that, would not cheerfully have granted them the right of way practically without condition. They said, "Here are a people who evidently have plenty of money. They offer us ten millions. A people who will offer us \$10,000,000 in so short a time, if we delay this matter, will grow desperate and offer us more."

They knew more about the canal situation than our friends on the other side of the Chamber appear to know. They had a dim kind of opinion that so long as it was only 49 miles across there and 183 miles across up at Nicaragua the "reasonable time" suggested by law would probably be not a week or a month, but may be years before the United States would turn away from that opportunity to build this public work.

So they said, "Having offered us ten millions, we will wait; maybe they will offer us \$15,000,000. Having offered us \$250,000 as an annuity for the use of this territory, maybe they will offer us \$300,000."

They saw a big item—\$40,000,000—to go to the New Panama Canal Company. The first article of the treaty arranged for their giving their consent to the canal company selling its own property and concession to us.

There is not a civilized country in the world which would not have gladly paid a bonus to have the concession transferred from that worthless and bankrupt concern to a responsible party, except these politicians at Bogota. But they saw the size of those figures—\$40,000,000—and they said, "There are only 2,000 of us, and that is a large sum of money. We are perfectly willing that they should sell this concession to the United States, but we want a little time before it is done to enter into some quiet negotiations with the owners of the Panama Canal franchise."

So they deliberately proceeded to hold up this treaty in order that they might get a chance to steal a portion of the \$40,000,000 which the Government of the United States had already appropriated to pay for the property and franchises of the New Panama Canal Company.

I will not go into that further, except to say that no intelligent American can read this correspondence without seeing that if that canal treaty failed at Bogota the Colombian Government was on the eve of an insurrection, the like of which had never occurred in the whole stormy history of that Republic. That word was spoken on the floor of the Congress, and just before the treaty was rejected the helpless and superannuated old dictator of the Colombian Republic, with feeble hand, appointed Senator Obaldia as governor of Panama, and sent him down there in that capacity.

That brave friend of the Isthmian canal and that patriotic and home-loving citizen of Panama said publicly in the Colombian Congress that if he went down there as governor of Panama and that Congress defeated the treaty he would himself head an insurrection for the independence of the Republic of Panama.

So I can not understand what is the motive which prompts men to stand here and ask if the President of the United States is not at the bottom of this insurrection. I have heard Senators—and I confess I heard it with pain—disparage the official report of Commander Hubbard and what he had done on the Isthmus of Panama.

Mr. TELLER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. DOLLIVER. With great pleasure.

Mr. TELLER. I suppose the Senator refers to what I said yesterday afternoon?

Mr. DOLLIVER. I have an indirect reference to it.

Mr. TELLER. I merely called attention to the fact that the statement was not made by Commander Hubbard, who stated distinctly that the mayor had told him. Commander Hubbard never even gave it his sanction. He said: "The prefect of the town told me this was the fact."

Mr. DOLLIVER. He gave it this much sanction, that he advised the American women and children in that town to congregate at the railroad station, where they could have military defense; and he says also that foreign residents took advantage of that rumor to retire to convenient warships of Great Britain and other countries which had congregated in that harbor.

Mr. TELLER. The Senator from Iowa is a lawyer. He knows that is no proof. It was a wise thing probably for the people at that time to do.

Mr. DOLLIVER. Quite.

Mr. TELLER. But it is no proof that the Colombian general made any such threat, and his subsequent conduct in calling upon Hubbard the same afternoon, a few hours afterwards, shows there was probably nothing in it.

Mr. DOLLIVER. I think his subsequent conduct was probably affected by Hubbard's conduct.

Mr. TELLER. All I want to say is that if Commander Hubbard had made report that that was the fact, I should not have questioned it.

Mr. DOLLIVER. I am very glad to hear the Senator say that, for if there is one thing in which we should all take a national pride it is the fidelity and modesty and accuracy with which these naval officers of ours make reports to the Department of what they have done and what they contemplate doing.

I am glad if I misunderstood the honorable Senator from Colorado in throwing suspicion upon an official report of a man who, if this business which he did at Panama illustrates his ability, will rank among the efficient public servants in the Navy of the United States.

We have had within the last few years two of our naval officers who may never become famous, but who, in my judgment, rendered incalculable service to the country. One of them was Admiral Kempff, the man who stood off the coast of China when every nation in the world was deriding him, some of them even calling him a coward, because he would not go into action with other nations and bombard the city of Tientsin, in China, and solemnly, in the fear of God and in the service of his country, said he would not and could not because the traditions of the United States forbade any foreign alliance, and because he would not bombard the coast of a country with which we were at peace.

The other case is that of this young commander of the *Nashville*, under trying circumstances there, with men, women, and children flying from what they supposed to be danger, gathering together the American residents in the old stone depot, at the outskirts of the city, putting it in a state of military defense, and disembarking forty-two men, not marines, because the Secretary of the Navy tells me he had only a few marine guards on his ship, but disembarking forty-two blue-jackets of the Navy to go from their ship, their home on the water, and to stand between our people and the injuries and losses that might have befallen that community. That I say, whether it is long remembered or not, will some day be discovered by the historian to be one of the bright pages in the glorious record of the little Navy of the United States.

It is not a very big achievement. It is not big enough to justify my friend the Senator from Nevada [Mr. NEWLANDS] in describing it as a state of war, in describing us as going to war with the friendly State and the people of Colombia. I confess I was a good deal perplexed the other day to find that distinguished Senator saying here that we were at war or had been at war with the Republic of Colombia. He seemed to be one of the few well-advised people who understood what was going on there.

I have great respect and admiration for his sagacity, but I am not able, even now, to understand how he discovered that we were at war with Colombia, when the Colombian Government itself never seemed to have heard of it, but on the contrary has constantly maintained its peaceful legation at our capital. Yet that is the only act looking like war which occurred there.

Men say the President of the United States issued orders which, if they had ever been received and had ever been acted upon, would have constituted a violation of the treaty and an act of war. I do not believe it.

Mr. NEWLANDS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. DOLLIVER. With very great pleasure.

Mr. NEWLANDS. Does the Senator insist that the instructions given to our naval commanders in those waters were not acted upon?

Mr. DOLLIVER. The only action I find recorded is this action of the commander of the *Nashville* in protecting the lives and property of American citizens in Panama. The other action seems to have been entirely commercial or financial.

Mr. NEWLANDS. Does the Senator deny that Admiral Coghlan informed the commander of the Colombian forces that he had been instructed by the United States Government not to permit the landing of Colombian forces upon her own soil?

Mr. DOLLIVER. My impression is that that occurred after the recognition of the Republic of Panama. But I am here to defend it wherever and whenever it occurred.

I am not one of those who apologize for any item in this transaction. I claim that the present Secretary of State knows as

much about international law as any man in this Chamber, on either side.

I claim that his heart is filled with as high a form of patriotism as belongs to any man in this Chamber on either side, and if I was called upon to take the opinion of John Hay and put it against the opinion even of the most learned masters of the law here, I would on such a question, without fear or doubt, take the opinion of the Secretary of State.

So I do not stand here to apologize for one minute either for any order that was issued or for any act that was done in Panama. I hold that our treaty relations with the Colombian Government made it absolutely essential for us to do what we have been doing.

And that brings me to discuss a question which I intend to deal with with very great brevity, unless I find myself a good deal less master of my views on it than I had expected—the treaty of 1846.

I took a very great interest in the discussion of that question by the learned Senator from Colorado yesterday. I could not help but admire the industry and legal wisdom and learning which he had brought to that discussion, and yet I am satisfied from all I can find out that his speech and his discussion of the treaty of 1846 were absolutely wide of the mark. He discussed it as if it were a sort of treaty of commercial reciprocity, and as if this canal business were an obscure incident in it, which had unfortunately become prominent afterwards.

I do not so read the history of that transaction. I maintain that the treaty of 1846 was a canal treaty, and nothing else of importance. It had other items in it. It did provide for mutual reciprocal concessions in the matter of customs duties, etc. But the thing about that treaty which gave it significance and importance in the eye of our Government, and in the eye of the Government of Colombia, was the canal.

It was only a dream then. It has been a mere vision for generations. In 1835 the Senate had taken action looking toward it, and in 1839 the House had acted, on the request of New York merchants upon the subject, but it was a mere dream of the future, and the far-sighted men whose business, as statesmen, it was to deal not with the passing hour, but with all the centuries that are to come, looked forward to the absolute necessity of that canal.

It was at a time when our coasts had been enlarged by the settlement of California and its acquisition from Mexico, and the statesmen of that period saw that it was a part of the national life of the American people to find a better transit through the Isthmus of Panama. If anyone will take up the history of the negotiation of 1846 as a mere reciprocal commercial agreement, he misses altogether the substance and the motive of that transaction.

It was the hope and promise of the canal inspiring both the statesmen of New Granada and the statesmen of the United States which brought that negotiation into existence.

I do not intend to quote the diplomatic correspondence, though I have it upon my desk. The treaty had thirty-five articles in it. The relative importance of those articles is well exhibited by President Polk's message, February 15, 1847, transmitting the treaty to the Senate.

It is as follows, and nobody can read it without perceiving the motive and influence leading up to it:

To the Senate of the United States:

I transmit to the Senate, for their advice with regard to its ratification, "a general treaty of peace, amity, navigation, and commerce between the United States of America and the Republic of New Granada," concluded at Bogota on the 12th December last, by Benjamin A. Bidlack, chargé d'affaires of the United States, on their part, and by Manuel Maria Mallarino, secretary of state and foreign relations, on the part of that Republic.

It will be perceived by the thirty-fifth article of this treaty that New Granada proposes to guarantee to the Government and citizens of the United States the right of passage across the Isthmus of Panama, over the natural roads, and over any canal or railroad which may be constructed to unite the two seas, on condition that the United States shall make a similar guaranty to New Granada of the neutrality of this portion of her territory and her sovereignty over the same.

The reasons which caused the insertion of this important stipulation in the treaty will be fully made known to the Senate by the accompanying documents. From these it will appear that our chargé d'affaires acted, in this particular, upon his own responsibility, and without instructions. Under such circumstances it became my duty to decide whether I would submit the treaty to the Senate; and, after mature consideration, I have determined to adopt this course.

The importance of this concession to the commercial and political interests of the United States can not easily be overrated. The route by the Isthmus of Panama is the shortest between the two oceans, and, from the information herewith communicated, it would seem to be the most practicable for a railroad or canal.

The vast advantages to our commerce which would result from such a communication, not only with the west coast of America, but with Asia and the islands of the Pacific, are too obvious to require any detail. Such a passage would relieve us from a long and dangerous navigation of more than 2,000 miles around Cape Horn and render our communication with our own possessions on the northwest coast of America comparatively easy and speedy.

The communication across the Isthmus has attracted the attention of the Government of the United States ever since the independence of the South American republics. On the 3d of March, 1835, a resolution passed the Senate in the following words:

"Resolved, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the governments of

other nations, and particularly with the governments of Central America and New Granada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific oceans by the construction of a ship canal across the Isthmus which connects North and South America, and of securing forever, by such stipulations, the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established, to compensate the capitalists who may engage in such undertaking and complete the work."

No person can be more deeply sensible than myself of the danger of entangling alliances with any foreign nation. That we should avoid such alliances has become a maxim of our policy, consecrated by the most venerated names which adorn our history and sanctioned by the unanimous voice of the American people. Our own experience has taught us the wisdom of this maxim in the only instance—that of the guaranty to France of her American possessions—in which we have ever entered into such an alliance.

If, therefore, the very peculiar circumstances of the present case do not greatly impair, if not altogether destroy, the force of this objection, then we ought not to enter into the stipulation, whatever may be its advantages. The general considerations which have induced me to transmit the treaty to the Senate for their advice may be summed up in the following particulars:

1. The treaty does not propose to guarantee a territory to a foreign nation in which the United States will have no common interest with that nation. On the contrary, we are more deeply and directly interested in the subject of this guaranty than New Granada herself, or any other country.

2. The guaranty does not extend to the territories of New Granada generally, but is confined to the single province of the Isthmus of Panama, where we shall acquire by the treaty a common and coextensive right of passage with herself.

3. It will constitute no alliance for any political object, but for a purely commercial purpose, in which all the navigating nations of the world have a common interest.

4. In entering into the mutual guaranties proposed by the thirty-fifth article of the treaty, neither the Government of New Granada nor that of the United States has any narrow or exclusive views. The ultimate object, as presented by the Senate of the United States in their resolution to which I have already referred, is to secure to all nations the free and equal right of passage over the Isthmus. If the United States, as the chief of the American nations, should first become a party to this guaranty, it can not be doubted—indeed, it is confidently expected by the Government of New Granada—that similar guaranties will be given to that Republic by Great Britain and France. Should the proposition thus tendered be rejected, we may deprive the United States of the just influence which its acceptance might secure to them, and confer the glory and benefits of being first among the nations in concluding such an arrangement upon the Government either of Great Britain or France. That either of these Governments would embrace the offer can not well be doubted; because there does not appear to be any other effectual means of securing to all nations the advantages of this important passage but the guaranty of great commercial powers that the Isthmus shall be neutral territory. The interests of the world at stake are so important that the security of this passage between the two oceans can not be suffered to depend upon the wars and revolutions which may arise among different nations.

Besides, such a guaranty is almost indispensable to the construction of a railroad or canal across the territory. Neither sovereign states nor individuals would expend their capital in the construction of these expensive works without some such security for their investments.

The guaranty of the sovereignty of New Granada over the Isthmus is a natural consequence of the guaranty of its neutrality, and there does not seem to be any other practical mode of securing the neutrality of this territory. New Granada would not consent to yield up this province in order that it might become a neutral state; and if she should, it is not sufficiently populous or wealthy to establish and maintain an independent sovereignty.

But a civil government must exist there, in order to protect the works which shall be constructed. New Granada is a power which will not excite the jealousy of any nation. If Great Britain, France, or the United States held the sovereignty over the Isthmus, other nations might apprehend that, in case of war, the Government would close up the passage against the enemy; but no such fears can ever be entertained in regard to New Granada.

This treaty removes the heavy discriminating duties against us in the ports of New Granada, which have nearly destroyed our commerce and navigation with that Republic, and which we have been in vain endeavoring to abolish for the last twenty years.

It may be proper, also, to call the attention of the Senate to the twenty-fifth article of the treaty, which prohibits privateering in case of war between the two Republics; and also to the additional article, which nationalizes all vessels of the parties, which "shall be provided by the respective Governments with a patent issued according to its laws;" and, in this particular, goes further than any of our former treaties.

JAMES K. POLK.

WASHINGTON, February 10, 1847.

Here was a feeble state, including within its territory what is now known as Panama. It was a feeble state. The nations of Europe were looking toward that Isthmus to despoil it. The French people especially and the English had the eyes of avarice and commercial foresight upon that strategic point on the American Continent, and the people of New Granada felt that if they could get in some way under the shadow of the American Republic they would be enabled to preserve the integrity of their territory and to peacefully work out their destiny.

That was before the age of blackmail and commercial degradation which has since fallen upon that unhappy community.

They were farsighted men, and fortunately we had farsighted men here. When Mr. Polk sent to the Senate the treaty of 1846 he said hardly a word about anything except this dream of the isthmian canal.

For that the Government of the United States undertook to protect the integrity and the sovereignty of the State of New Granada, and in exchange for that the State of New Granada undertook to guarantee by a solemn public grant to the United States, not a mere right of way, not a mere bypath across those mountains to be kept free and open, but they guaranteed the right of free and uninterrupted transit, not only by the means that were then known, but by all the means that were suggested by the hopes of the world over that Isthmus.

Now, I hold that as a question of law my honorable friend from Wisconsin [Mr. QUARLES], who spoke here the other day, made an

absolute demonstration that whatever rights New Granada had by that treaty went by inheritance to the State of Colombia; that whatever rights Colombia had by that treaty have now gone by inheritance to the State of Panama, and that we are bound by that treaty to do for the new little Republic of Panama exactly what we proposed fifty years ago to do first for New Granada and after that for the United States of Colombia.

I hold, further, following closely what I consider as the unanswerable argument of the Senator from Wisconsin, that that grant was in its very nature a servitude upon the sovereignty and rights of the State of New Granada. It was more than a right of way. It was a guaranty that the United States should have rights along that canal route, which in their very nature were a qualification of the complete sovereignty of the Republic of New Granada.

And that is no statement of imaginary international law. My friend from Colorado [Mr. PATTERSON] the other day undertook to say that when the President of the United States described our rights in New Granada and in Colombia and afterwards in the State of Panama as a property right "carved out of the sovereignty" of these States, he not only spoke words of nonsense, but that he was the only living man that ever thought of such a proposition.

It is, however, a well-established proposition of international law that there is such a thing as a grant of this character, constituting a property right carved out of the sovereignty of the state that makes the grant. I have here one of the ablest works, I think, there is on international law, which expressly describes that situation. So the President of the United States was not either going beyond precedent or outside of the authority of the law when he referred to our rights on that Isthmus as a property right carved out of the sovereignty of Colombia. This author says:

From their very nature and situation the right to use and enjoy certain classes of state property depends exclusively upon municipal law, while for a like reason the right to use and enjoy certain other classes depends entirely upon international law. A state may limit or qualify its sovereignty and jurisdiction over its territorial property by permitting a foreign state to perform within its bounds certain acts otherwise prohibited, or by surrendering the right to exercise certain parts of its domestic jurisdiction as a protection to others. Restrictions thus imposed upon the sovereignty of a state are known as servitudes, which may be either positive or negative.

Mr. CULLOM. What does the Senator read from?

Mr. DOLLIVER. From Taylor's International Public Law, chapter 3, page 263. That is not only true now, but it was true at the time of this transaction, and I have an idea that Franklin Pierce, who has been described here as not a very great man, had heard something of that carving out of the sovereignty of Colombia and adding it to the sovereignty of the United States.

If he did not have that in his mind, it is a little difficult to find out what he meant in this message of his of May 16, 1856, when, after having described the intolerable situation which would be created if both the transit at Nicaragua and the transit at Panama were stopped up, he used the words which I shall read. He has already described the interruption of the transit of Nicaragua on account of the Walker insurrection down there. He says:

Further than this, the documents communicated show that, while the interoceanic transit by way of Nicaragua is cut off, disturbances at Panama have occurred to obstruct, temporarily at least, that by the way of New Granada, involving the sacrifice of the lives and property of citizens of the United States. A special commissioner has been dispatched to Panama to investigate the facts of this occurrence, with a view particularly to the redress of parties aggrieved. But measures of another class will be demanded for the future security of interoceanic communications by this as by the other routes of the Isthmus.

Then follows a sentence which I have no doubt the President of the United States had in his mind when he spoke of our rights there as having been carved out of the sovereignty of Colombia. He says:

It would be difficult to suggest a single object of interest, external or internal, more important to the United States than the maintenance of free communication, by land and sea, between the Atlantic and Pacific States and Territories of the Union. It is a material element of the national integrity and sovereignty.

How did it become a part of the sovereignty of the United States to have free access from the Atlantic to the Pacific Ocean across the Isthmus of Panama? It either arose by natural right, which has been discussed here in a dim way under the name of international eminent domain, or it arose by this treaty.

I have made such an examination of the documents that accompanied this negotiation and of the history of those times as to make my own mind clear that it was the intention of that small, struggling, feeble little community of New Granada of 1846, as a price for the guaranty of its integrity against foreign aggression, to give to the United States this grant, which is in the nature of a servitude guaranteed to the use of the commercial world.

That leads me to say that the President of the United States has taken no action in connection with this treaty which is not warranted. It is in vain for anybody to read authorities, it is in vain even for a man with such profound learning as the junior Sena-

tor from Massachusetts [Mr. LODGE] to array here, as he has so ably done, the whole line of legal precepts and authorities upon this question. It is a question that will be decided now, as it always has been decided, upon the history of the United States.

Somebody says that the Government of the United States never had any right to do anything in the Isthmus of Panama without the request of the Government of Colombia. I deny it. No such construction of that treaty can be made. If that were a proper construction of the treaty, the whole history of the United States in respect to it there has been a violation of that provision of the treaty.

To my mind it is incredible that with this enormous interest at stake the United States should have been called upon by that treaty to stand idly by and see life and property and commerce destroyed without intervening, waiting for the request of the Colombian dictator and relying for reparation upon an action in damages against that bankrupt, helpless political institution. I deny that it has any sense in it, and I deny that it accords with the history of the people of the United States.

If it did, what did President Buchanan mean when he came to Congress and asked the authority of Congress to take an army to the Isthmus of Panama whenever we needed one there? If he had no right to use it except at the request of the insurrectionary peoples inhabiting that neighborhood, what did he mean when he asked Congress to give him an express authority to take the Army of the United States down there and occupy the Isthmus of Panama for the purpose of protecting our property?

I say, then, Mr. President, that we have in that Isthmus, and have had for fifty years, a property right carved out of the sovereignty first of New Granada, and then of Colombia, and now of the State of Panama that warrants every order the President of the United States has issued and every act that has been done either by our bluejackets or by our marines in either harbor of the Isthmus of Panama.

I do not propose to stand here one minute apologizing either for what has been written down on paper or what has been done by the gallant officers and seamen and marines of our little fleet down there at Colon and at Panama. I have got to a point where I propose to stop apologizing for the Government of my own country in order to add to the comfort and solace the feelings of people who reside in foreign countries.

I have reached a point in my patriotism where I propose to stand with the United States and let the other peoples of the world take care of their own governments. Without intending to irritate or disparage anybody, I say to my brethren upon the other side of this Chamber that there is nothing to be made politically by embarrassing the movements of the Government of the United States in these great transactions which involve its relations with foreign countries.

I dismiss, as the President of the United States very properly dismissed, with contempt the proposition that the Government of the United States is capable of any untoward, underground intrigue in connection with this great business. I say that the whole history of it is written. It is a history of anarchy and despotism for forty years upon the Isthmus of Panama. If there was no other law of the United States or of nations that justified our conduct, I would suggest the existence of a law which more than once has directed the history of this world, and that is the law of exhausted patience.

The time had come and had long been passed when the United States could any longer afford to be mixed up in an attitude hostile to that little community huddled along the Panama Railroad, fighting for its liberty and longing for the time when it might enjoy the advantages in its commerce and its business which must come from the interoceanic canal. I rejoice that after all these years the time came when with honor and with dignity and with dispatch the Government of the United States could wash its hands of that despotism, could put an end to its alliance with that anarchy, could bid an affectionate good-by to that cunning dictatorship at Bogota, and extend for the first time in its history the right hand of fellowship and defense to the population of the Isthmus of Panama.

For the first time in all this long controversy the canal is in sight. I hope our old friend the senior Senator from Alabama [Mr. MORGAN] will live to see it finished, to see the great enterprise to which he has devoted his life consummated in the construction of this public work. It ought to be built upon the sea level. I predict that before we are fully at work upon that canal the progress of electrical science will devise measures to put the canal through upon the sea level at an expense infinitely less than any of the practical engineers of our day even dream of.

It will be built, owned by the United States, defended by the United States, undisturbed by the anarchy at Bogota, in the midst of a grateful, friendly community in sympathy with our interests and with our purposes, enjoying at last the realization of their hopes and of their ambitions. It will make secure the

fame of many who have given it help in times when it needed help. It will preserve the reputation of statesmen of both Houses of Congress of all parties and all sections who have looked forward to its consummation. Foremost among them will be the Senator from Alabama, and I hope that his years may be lengthened to see that day.

But among all the statesmen whose names are honorably connected with this superb enterprise there is one—brave, direct, and manly in his life before he entered upon the duties of President; brave, direct, and manly still under the burdens of that great office—for whom above all others history will reserve, after these noises are all silent, its choicest benediction, "Well done, thou good and faithful servant of civilization." [Applause in the galleries.]

The PRESIDENT pro tempore. Applause is not permitted in the galleries.

Mr. TELLER. Mr. President, before the Senator from Iowa leaves the Chamber I wish to call his attention to a statement he made. I will wait until he has received the congratulations of his friends on his speech.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. TELLER. I should like to have the attention of the Senator from Iowa for a few moments. The Senator states that this treaty is a canal treaty and nothing else, or words to that effect.

Mr. TILLMAN. The treaty of 1846?

Mr. TELLER. I am speaking of the treaty of 1846. I will not assume that the Senator from Iowa has not read the treaty. Of course I know he has.

Mr. DOLLIVER. If the Senator will pardon me, I did not undertake to say that it was a canal treaty and nothing else. I said it was a very long treaty, containing much matter, but that the thing about it which gave it significance, and practically the only thing referred to in President Polk's message sending it to the Senate for ratification, was this canal.

Mr. TELLER. Oh, Mr. President, the Senator is mistaken. He can not have read Polk's message either. When President Polk sent in his message he did not put it on the ground of a canal at all, if the Senator will pardon me, but Polk's message, he will see, put it on concessions made to us with reference to the introduction of goods into Colombia. I ask some Senator to turn to it.

Mr. DOLLIVER. If the Senator will permit me, Mr. Polk says:

Besides—

Referring to the guaranty of the neutrality of the territory—

Besides, such a guaranty is almost indispensable to the construction of a railroad or canal across the territory. Neither sovereign states nor individuals would expend their capital in the construction of these expensive works without some such security for their investments.

Mr. TELLER. I have not denied that, but that does not make good the statement of the Senator that this was a canal treaty. I wish that my colleague [Mr. PATTERSON], who has the message before him, would read what he said as to the other points in this case.

Mr. PATTERSON. President Polk says:

The vast advantages to our commerce which would result from such a communication, not only with the west coast of America, but with Asia and the islands of the Pacific, are too obvious to require any detail. Such a passage would relieve us from a long and dangerous navigation of more than 9,000 miles around Cape Horn, and render our communication with our own possessions on the northwest coast of America comparatively easy and speedy.

Then he continues:

The guaranty of the sovereignty of New Granada over the Isthmus is a natural consequence of the guaranty of its neutrality, and there does not seem to be any other practicable mode of securing the neutrality of this territory.

This treaty removes the heavy discriminating duties against us in the ports of New Granada, which have nearly destroyed our commerce and navigation with that Republic, and which we have been in vain endeavoring to abolish for the last twenty years.

Mr. TELLER. The papers submitted with the treaty will show that the practical point to be secured by the concession that has just been mentioned in the message was not the canal, and the canal is mentioned simply once in that treaty.

If I can not have the attention of the Senator I do not care about discussing it. Mr. President, I do not get up here simply to charge something against the Senator. I think the Senator overlooked the gist of this treaty, and I wanted to call his attention to it; but if the Senator is not at all concerned about it, it is not worth while, perhaps, for me to make the suggestion.

Mr. DOLLIVER. I assure the Senator I am very much interested in what he says. I have been interrupted, without any purpose to be disrespectful to him.

Mr. TELLER. This is a treaty of amity, navigation, and commerce. It consists of a large number of articles. It is one of the most elaborate treaties that we have ever made. It has thirty-six articles in it. The thirty-fifth article is the one that treats of the canal and the railroad. It mentions the canal once. At that

time there was no transit at all across the Isthmus at that point, except the trail that went across. There was no railroad. The railroad was built subsequently to that time. This treaty does not profess anywhere in it to be a canal treaty. As I said the other day, it does not give us any canal rights whatever. It does not purport to do it.

The Senator from Iowa says we had a sovereignty in it, Mr. President, that is denied by a subsequent treaty which we ourselves made eleven years later, in which we said then that by this treaty it was the duty of Colombia, or New Granada at that time, to take care of this transit, and not our duty.

The Senator says that we certainly had a property right in it. Mr. President, I assert that neither President Pierce nor any other man ever asserted, inferentially or otherwise, that we had any property rights there in the territory or any right of sovereignty. A right to travel through another man's land does not give me ownership in the land, and when Colombia said to us, "You may go across any canal that may be built, you may go across any railroad that may be built," they did not say that we had the sovereignty.

Mr. President, this was a treaty for twenty years. What would become of the sovereignty we are supposed to have obtained from Colombia if, at the close of twenty years, we should say, or Colombia should say, "This treaty is terminated?" That of itself shows that there was no sovereignty here.

I repeat that the President of the United States is the first man ever found in the United States to suggest—whether he suggested it on his own motion or not I do not know—but he is the first man who ever suggested it publicly.

Mr. President, you do not establish propositions of law any more than you establish propositions of morals by vociferation and declaration—that is to say, unless the declaration is made by a legislative body. The Senator speaks ex cathedra when he says, "Nobody can question what I have said. I declare this to be the law." Of course it may be all right for the Senator to say that, but it comes in conflict with the decisions of the Attorneys-General and of the Secretaries of State of the United States for the last forty years. It puts him in absolute hostility to the opinions of all the publicists of all the ages of the world. He says there is no use in going back to Grotius. I am afraid he has not been there, Mr. President. I think he might acquire some information of value to him if he went there and studied that great authority.

I do not intend to make any speech on this subject, but I want to call the Senator's attention to the matter, because I think, if he will examine the treaty, he will see that this passage is significant:

And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages and for the favors they have acquired by the fourth, fifth, and sixth articles of this treaty.

Those are the things which are included in what my colleague [Mr. PATTERSON] read from the message of the President.

That was the gist of this treaty and of its language. As I said the other day, for forty years thereafter we absolutely ignored the proposition that we were to build a canal there. We treated with other nations. When we passed bills, of which we passed three, they were for the purpose of building a canal somewhere else.

Mr. President, it seems to me—and I speak with all deference for the Senator from Iowa—that he was inclined to put me in a false attitude when he said that I questioned the authority of the report which he read from Commander Hubbard. I was careful to call attention to the fact that the statement was made upon a report made to him by the prefect—I do not know whether he was a fat man or a lean man or a mulatto, or what he was; but I know he was a man who naturally had large interest in securing active interference with affairs there by the Government of the United States, and it was but natural for him to say to our officers: "If you do not intervene, you are all going to be killed, for this man is threatening with death and destruction everything American."

I called attention yesterday to the fact that our consul in the voluminous correspondence which he had with the Government of the United States concerning conditions there never mentioned anything of that kind.

This is not a question of the condition of Colombia. It does not make much difference whether the people there are as bad as the Senator from Iowa says they are, or whether the people of Panama are as good as he says they are. This question can not be settled in that way. We have presented the law as we believe it to be. If Senators wish to contest that, of course they have the right to contest it upon their own judgment or they can contest it upon authorities.

I am not disturbed by the frequent and repeated laudations of the Chief Executive and the Secretary of State. All those things are proper to a certain degree, and they may be profitable even beyond what is proper. My relations with the Executive are cer-

tainly not hostile; yet I can not subscribe to the statement that this act of the President is a more magnificent, transcendent, patriotic, and beneficial act than that of any previous Administration or of all Administrations, as I have heard asserted.

Mr. NEWLANDS. Mr. President, in the debate in the Senate on January 14, whilst I was occupying the floor, the following colloquy took place:

Mr. QUARLES. The Executive discretion as to whether a government should be recognized. And, to make my question more pointed, I should like the Senator to indicate to the Senate what act of the President it is that he thinks Congress should disavow. That will bring the legal question exactly down to the point where we can comprehend it.

Mr. NEWLANDS. I should disavow all of his acts that are in violation of the treaty of 1846—and I have enumerated them—that are in violation of international law—and I have enumerated them—and in violation of the Constitution of the United States—and I have enumerated them. What happens when the disavowal is made?

Mr. SPOONER. I appeal to the Senator from Nevada to introduce such a resolution in order that there may be developed here in a practical way a line of action on his proposition.

Mr. NEWLANDS. I will take the appeal of the Senator from Wisconsin under consideration.

Pursuant to that appeal, Mr. President, I have prepared the resolutions which I send to the desk to be read by the Secretary, as they present my individual views upon this question. They contain a statement of fact, a recital and disavowal of the acts of the President which constituted a violation of the treaty of 1846, of international law, and of the Constitution. They provide for redress to Colombia and for the immediate settlement of all existing claims of Colombia and the immediate commencement of the Panama Canal.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

Whereas by the treaty between the United States and the Republic of New Granada (now Colombia), made in 1846, New Granada guaranteed to the United States that the right of way or transit across the Isthmus of Panama upon any mode of communication then existing or thereafter to be constructed should be open to the Government and citizens of the United States, and in return the United States guaranteed, positively and efficaciously, to New Granada (now Colombia) the perfect neutrality of the said Isthmus, with a view that the free transit from the one to the other sea might not be interrupted or embarrassed, and also guaranteed in the same manner the rights of sovereignty and property which New Granada (now Colombia) had and possessed over the said territory; and it was also provided in the said treaty that if any of the articles contained therein should be violated and infringed, neither of the two contracting parties should ordain or authorize any act of reprisal nor declare war against the other on complaint of injuries or damages until the party considering itself offended should have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same should have been denied in violation of the laws and of international right; and

Whereas thereafter the Panama Railroad was constructed under a concession granted by Colombia, by which the Panama Railroad bound itself to transport gratuitously the troops, chiefs, and officers, their equipage, ammunition, armament, clothing, and also the effects that belonged to or were destined for the immediate service of the Colombian Government, and thereafter the control of such railroad was gained by the New Panama Canal Company of France, which, under the concession granted by Colombia for the construction of an interoceanic canal, was obligated to carry gratis, through the canal or auxiliary railway, namely, the Panama Railroad aforesaid, "men destined for the service of the nation, for the service of the State, or for the service of the police, with the hope of guarding against foreign enemies, or for the preservation of public order," and also to transport gratis their baggage or material, armament, etc.; and

Whereas the treaty of 1846 had, prior to the recent occurrences, been uniformly construed by the Government of the United States as enjoining upon the United States the duty and the privilege of protecting the neutrality of the Isthmus of Panama and the sovereignty of Colombia over the Isthmus against foreign attack, and as enjoining upon Colombia the duty and reserving to her the privilege to maintain domestic order and suppress domestic disorder which would injure such freedom of transit; and

Whereas prior to the recent occurrences the aid given by the United States in the maintenance of domestic order was in aid of Colombia, at her request, and in recognition of her sovereignty, as said treaty required; and

Whereas by act of Congress approved June 28, 1902, the President of the United States was authorized to purchase the rights of the New Panama Canal Company of France, and also to acquire the control of the Panama Railroad, and also to acquire from Colombia the perpetual control of a strip of land between the Caribbean Sea and the Pacific Ocean, for the purpose of constructing an interoceanic canal, and it was also in said act provided that, should the President be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Company of France and the control of the necessary territory of Colombia, and other rights referred to therein, within a reasonable time, and upon reasonable terms, then the President should proceed to obtain control, by treaty, of the necessary territory from Costa Rica and Nicaragua for the construction of the Nicaragua Canal, and should thereupon proceed to its construction; and

Whereas, thereafter, the treaty known as the "Hay-Herran treaty," providing for the acquisition and control of a strip of land on the Isthmus of Panama, was negotiated between the United States and Colombia, which treaty required confirmation by the Senate of the United States and the Congress of Colombia, and such treaty was ratified by the Senate of the United States, but failed of ratification by the Colombian Congress; and

Whereas thereafter the President of the United States, as appears by his message addressed to the Senate, learning that an effort would be made to dismember the Colombian Republic by the secession of Panama therefrom, directed the Navy Department to station certain of the armed vessels of the United States within easy reach of the Isthmus; and

Whereas thereafter, as appears by such message, on the 2d of November, 1903, and prior to the organization of a revolutionary government in Panama, the following instructions were sent to the commanders of such vessels:

"Maintain free and uninterrupted transit. If interruption is threatened

by armed force, occupy the line of railroad. Prevent landing of any armed force with hostile intent, either Government or insurgent, at any point within 50 miles of Panama. Government force reported approaching the Isthmus in vessels. Prevent their landing if, in your judgment, the landing would precipitate a conflict;" and

Whereas the landing which the said naval forces were instructed to prevent was the landing of Colombian troops intended to aid in the maintenance of civil government in Panama, and to defend the sovereignty of Colombia against domestic disorder and insurrection, if any such occurred, and the hostile intent therein referred to was the intent to suppress any such intended insurrection, and the conflict which said forces were to prevent was the use of force, if it proved to be necessary, by the Colombian Government to maintain and defend its sovereignty in Panama, and to suppress any domestic insurrection or disorder, if any such existed.

And thereafter certain forces of Colombia, having landed at Colon on the 2d day of November, before such instructions were received by the naval forces of the United States, their commanding officers proceeded on the Panama Railroad to Panama for the purpose of arranging the movement of their troops and were there arrested and imprisoned by an insurrectionary body of men, which had organized a junta and declared the independence of Panama at 6 o'clock on the evening of November 3; and thereafter, on the following 4th day of November, the commander of the *Nashville*, landing United States marines at Colon, prohibited the transit of the Colombian troops aforesaid to Panama, as reported in the following telegram:

"SECRETARY OF THE NAVY, Washington;

"COLON, November 4, 1903.

"Provisional government was established at Panama Tuesday evening; no organized opposition. Governor of Panama, General Tobar, General Amaya, Colonel Morales, and three others of the Colombian Government troops who arrived Tuesday morning taken prisoner at Panama. I have prohibited transit of troops now here across the Isthmus.

"HUBBARD."

And such prohibition was in express violation, not only of the concessions made by Colombia to the Panama Railroad and to the Panama Canal Company, as aforesaid, but also of the express terms of said treaty of 1846; and

Whereas, thereafter, the President, after preventing by the intervention of the armed forces of the United States, as aforesaid, the Colombian Government from suppressing such alleged insurrectionary movement, did, on November 6, 1903, recognize such alleged insurrection as an existing government and entered into relations with it, and denied the sovereignty of Colombia over said Isthmus, and recognized the sovereignty of such insurrectionary government over the same, and did thereafter, on the 9th of November, notify the Colombian Government that the United States would not permit the Colombian forces to land on the Isthmus for the purpose of asserting its sovereignty and suppressing insurrection against it, and thereafter did recognize M. Bunau-Varilla, a citizen of France, and representing the Panama Canal Company as the minister of the so-called Republic of Panama, and did cause to be negotiated with him as such minister plenipotentiary a treaty between the United States and the so-called Republic of Panama, providing for the construction of an interoceanic canal at Panama, and such treaty has been submitted by the President to the Senate for confirmation; and

Whereas the President, in justification of his action as aforesaid, subjoined to the rejection of the Hay-Herran treaty asserts:

1. That the rejection of the Hay-Herran treaty was a breach upon the part of Colombia of the treaty of 1846, the spirit, if not the terms, of which required that Colombia should grant subsequent concessions for the construction of means of interoceanic communication;

2. That the national interests and safety required it;

3. That the interests of collective civilization required it; and

Whereas the Government of Colombia, after the doings aforesaid, sent a special commissioner to the United States to present the complaints of Colombia against the United States for violation of the treaty of 1846, and for violations of international law, and requested other adjustment of said complaints or the reference of them to impartial arbitration: Now, therefore,

Resolved, That the instructions of the United States to its naval forces aforesaid not to permit the landing of the Colombian troops on the Isthmus, and the intervention of the armed forces of the United States to prevent such landing and the use of the Panama Railroad, and the display of power and force which overawed Colombia and prevented her from defending her sovereignty over the Isthmus, and thus secured the secession of Panama and the dismemberment of Colombia and the creation of a new sovereignty in Colombia's territory, sustained and supported only by the armed forces of the United States, constituted a declaration and prosecution of a successful war upon the part of the United States against Colombia.

2. That such action constituted a breach of the treaty of 1846 in this, that it denied Colombia's sovereignty over the Isthmus of Panama, expressly acknowledged by the treaty of 1846.

3. That it also violated the provision of the treaty of 1846, which declared that neither of the two contracting parties should ordain or authorize any act of reprisal nor declare war against the other on complaint of injuries or damages until the party considering itself offended should have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same should have been denied in violation of the laws and of international right.

4. That the recognition by the President of the United States of a state thus attempting to secede, which was without a government or an army or the ability to sustain itself or to maintain international obligations, and whose existence was supported and sustained alone by the armed forces of the United States, constituted a breach of international law.

5. That the armed intervention of the United States, as aforesaid, was making war against Colombia upon the part of the President of the United States without the sanction of the Congress of the United States, and was in violation of the provision of the Constitution which gives to Congress alone the power to declare war.

And whereas it is reported that Colombia is willing to settle on an honorable basis all her claims against the United States in relation to said occurrences and said Isthmus: Therefore,

Resolved, That the President of the United States is respectfully requested to negotiate a new treaty with the United States of Colombia providing for the cession by Colombia of all rights of every kind and description whatsoever which Colombia may claim to have in connection with the Isthmus of Panama or the treaty of 1846, including all her rights in the concessions for the construction of the Panama Railroad and Panama Canal across said Isthmus, and absolutely substituting by said treaty the United States of America for the United States of Colombia in all respects whatsoever, as far as said Isthmus of Panama is concerned.

Resolved, That said treaty should follow as closely as is feasible the lines of treaties whereby the United States acquired by purchase Louisiana from France, Florida from Spain, and Alaska from Russia.

Resolved, That if it is found impracticable to agree upon the amount of compensation for said cession, said amount shall be referred for determination to

arbitration, one arbitrator to be appointed by each Republic, and the umpire to be named by the president or sovereign of some disinterested country; but in case such arbitration is found necessary said treaty shall contain a provision allowing said cession to take full effect upon the exchange of ratifications thereof, without waiting for the result of said arbitration, in order that work upon said canal may be at once commenced.

Mr. NEWLANDS. Mr. President, I do not wish now to indulge in any extended remarks upon these resolutions. I simply wish to say that they express my individual views, without consultation with my associates as to the method by which all existing complications can be settled and the construction of an inter-oceanic canal across the Isthmus of Panama be immediately commenced. Their purpose is to expedite the canal, not to delay it.

I wish to say also in this connection that it has been stated in the public press that among the other propositions made to the Government of the United States by General Reyes, the special commissioner appointed by Colombia to settle these complications, the suggestion was made that, as compensation for the territory thus taken from Colombia, Colombia would accept the sum of \$10,000,000, to be expended in the construction of a railroad from Bogota to the coast.

I wish to say that I can imagine no worthier plan for the expenditure of this money than the one suggested by General Reyes. We all know that Colombia has no adequate means of transportation; that she is suffering from two things—one the lack of proper transportation and the other the lack of a proper medium of exchange, without which no country can reach either a high degree of civilization or of material progress. It seems to me that the Government of the United States could give to this Central American Republic no more substantial evidence of its desire to give adequate redress for accomplished wrongs than by appropriating such a sum for so beneficent a purpose. Our treaties, our diplomatic correspondence, our resolutions, our laws, all attest our desire for relations of friendship and amity with South American and Central American States. Let us add acts to words.

Now, Mr. President, I ask that the resolution lie on the table for future consideration.

The PRESIDENT pro tempore. If there be no objection, the resolution will be received and go over under the rule.

Mr. NEWLANDS. I ask that it lie upon the table.

The PRESIDENT pro tempore. Subject to the call of the Senator?

Mr. NEWLANDS. Yes; subject to my call.

Mr. PLATT of Connecticut. Let it be printed.

The PRESIDENT pro tempore. The Senator from Nevada asks that his resolution be printed and lie on the table subject to his call. Is there objection?

Mr. ALLISON. Mr. President, I do not object to that arrangement, although sometimes the call of a Senator may be inconvenient for other business of the Senate. There is now on the table a resolution of the Senator from South Carolina [Mr. TILLMAN], who yesterday gave notice that he would speak during the morning hour to-day on his resolution, and the consideration of that resolution occupied the entire morning hour. It is, of course, a subject of importance, and I suppose another day will be taken up in its discussion. I only suggest that, in case the arrangement suggested by the Senator from Nevada [Mr. NEWLANDS] is made, it should be so made as not to interfere with the important business that may arise in the Senate.

Mr. NEWLANDS. Of course I have no disposition to interfere with important business. I am not sufficiently familiar with the rules of the Senate to ask just what ought to be done with the resolution.

Mr. ALLISON. I think there will be no difficulty about it; but it seems to me we have a good many resolutions now lying upon our table that in some way ought to be disposed of. I am perfectly willing that the Senator from Nevada may have his resolution taken up at some convenient time. I only make the suggestion with a view of facilitating the consideration of the regular business of the session.

Mr. TELLER. Mr. President, I only want to say that I suggest to the Senator from Nevada, who, as he says, is not as familiar with the rules of the Senate as some of us are, that the course he has taken as to his resolution was the customary one, and I am very sure that there will be no abuse of the privilege by the Senator from Nevada.

Mr. ALLISON. I do not object to the arrangement suggested.

The PRESIDENT pro tempore. If Senators will allow the Chair to make a suggestion, he will say that there are perhaps a dozen resolutions now on the table, which are permitted to stay there until each has had its day in court. The resolution of the Senator from South Carolina [Mr. TILLMAN] has had a day in court, but by unanimous consent it is still permitted to stay here. If the resolution which the Senator from Nevada has offered remains on the table, it will be at the bottom of the list; but the Senator can probably, whenever he so desires, if it shall not be reached within two or three or four or five days, by unanimous

consent call it up in the same way the Senator from South Carolina called up his resolution.

Mr. ALLISON. I remember, Mr. President, the suggestion has been made here once or twice that Senators were being denied the opportunity to secure the passage of resolutions calling upon the Departments for information. Now, if there is any information desired as respects the important matters pending before the Senate, I hope resolutions of that character will be considered. That is all I desire to request about it.

Mr. GORMAN. I am delighted to hear the Senator from Iowa say that, if he will permit me.

Mr. ALLISON. I am delighted that the Senator from Maryland is delighted.

Mr. GORMAN. I understand that the resolution offered by myself asking for information after conference is not objectionable to anybody, and I ask that we may now have a vote on it. It is the pending resolution.

The PRESIDENT pro tempore. The pending resolution?

Mr. GORMAN. The pending resolution.

The PRESIDENT pro tempore. Is the Senator from Nevada content to have his resolution go over?

Mr. GORMAN (to Mr. NEWLANDS). Yes; that is all we want.

Mr. CULLOM. If the Senator from Nevada wants to make a speech, he can get an opportunity almost any time.

The PRESIDENT pro tempore. Then the resolution will go over under the rule.

Mr. GORMAN. Yes.

Mr. NEWLANDS. Yes.

Mr. CULLOM. The Senator from Nevada will have a chance to make a speech whenever he desires.

Mr. NEWLANDS. Yes.

The PRESIDENT pro tempore. The resolution will go over under the rule.

Mr. GORMAN. Now I ask for a vote on the pending resolution.

The PRESIDENT pro tempore. Is the Senate ready for a vote on the pending resolution?

Mr. BEVERIDGE. What is it?

The PRESIDENT pro tempore. It is the resolution known as the "Gorman resolution."

Mr. GORMAN. Let it be read.

Mr. KEAN. It has been very much amended.

Mr. FAIRBANKS. I should be glad to have it read for the information of the Senate.

Mr. TELLER. Let it be read.

Mr. GORMAN. Yes. It simply calls for the orders of the Department.

The PRESIDENT pro tempore. The resolution will be read.

The Secretary read the resolution submitted by Mr. GORMAN on the 5th instant, as modified, as follows:

Resolved, That the President be requested, if not in his judgment incompatible with the public interest, to inform the Senate:

First. The date when and the circumstances under which the United States used for the first time, and each succeeding time, a military force in the internal affairs of New Granada, or Colombia, under the treaty of 1848; whether such use of military force was on the initiative of the United States or by the request of New Granada, or Colombia, or in consequence of any official representation of either; and also to transmit to the Senate copies of the letters, or notes, in the Department of State, and of the orders by the Navy Department relating to such use of military force.

Second. Also to inform the Senate whether or not the United States has been asked by New Granada, or Colombia, or any official representative of either, to execute, by armed force, either the guaranty of the neutrality of the Isthmus or of the sovereignty of New Granada, or Colombia, over the same; and if the United States has been so asked, then the dates and circumstances thereof, and to send to the Senate copies of the letters or notes, in each case, conveying the application and what was done thereunder by the United States.

Third. And also to inform the Senate in which, if any, of the disturbances on the Isthmus of Panama, referred to by the President in his last annual message, the United States employed a military force, solely on its own initiative, and uninvited by the Government owning the Isthmus; and also to inform the Senate of the circumstances in each case which required such use of military force, and transmit copies of the orders issued by the Navy Department for such purpose.

Fourth. And also that he will inform the Senate of the dates when and circumstances under which the United States has employed military force in the internal affairs of New Granada, or Colombia, in aid of a revolt, or rebellion, or disturbance of the peace therein, or to suppress such revolt, rebellion, or disturbance.

Mr. SPOONER. What is the last paragraph? I ask the Secretary to read it again.

The Secretary read as follows:

Fourth. And also that he will inform the Senate of the dates when and circumstances under which the United States has employed military force in the internal affairs of New Granada, or Colombia, in aid of a revolt, or rebellion, or disturbance of the peace therein, or to suppress such revolt, rebellion, or disturbance.

Mr. SPOONER. That is rather a peculiar provision. It assumes that at some time the Government has employed military or naval force in aid of a revolt against Colombia. If the Senator from Maryland will qualify that, as I think he should—

Mr. GORMAN. I supposed the resolution was entirely satisfactory.

Mr. SPOONER. I had not observed that subdivision.

Mr. GORMAN. If the forces never have been so used, the President will say so.

Mr. SPOONER. It inquires whether at any time the Government has employed military or naval force in aid of a revolt.

Mr. GORMAN. Yes.

Mr. SPOONER. But the question as put there assumes that there have been such occasions and asks for dates. That is not proper.

Mr. GORMAN. If the Senator from Wisconsin will read the resolution, I think he will find—

Mr. McCOMAS. If my colleague will permit me, I suppose he means to include naval as well as military forces.

Mr. GORMAN. "Military force," I take it, would include either the naval or the military force. At any rate, there is no case where the Army has been employed; it has always been the Navy.

Mr. FAIRBANKS. I should object to the passage of the resolution in its present form. It seems to me that the fourth clause particularly is predicated upon a false basis. There is an assumption which, in my judgment, is unwarranted:

Fourth. And also that he will inform the Senate of the date when and circumstances under which the United States has employed military force in the internal affairs of New Granada or Colombia—

How?—

in aid of a revolt, or rebellion, or disturbance of the peace therein.

It seems to me that is entirely unwarranted, and, speaking for myself, I am unwilling to send to the President of the United States any resolution of that sort.

Mr. SPOONER. It is contended on the other side by some Senators that recently the United States employed military force in the internal affairs of New Granada or Colombia in aid of a revolt or rebellion or disturbance of the peace therein. That we on this side all deny. I did not understand that the Senator had in this resolution any inquiry based upon the assumption that we are all wrong and that he and some of his associates are right; but that is what this is. I do not think the Senator from Maryland meant that.

Mr. GORMAN. The President of the United States informs us in his message that the armed force of the United States has not been engaged in aid of a revolt or rebellion.

Mr. SPOONER. But, if my friend will permit me, that, to me, only affords an additional argument against the propriety of this subdivision of the resolution, because it could not be anything else than an insult to the President of the United States, of which the Senate ought not to be guilty, to pass a resolution asking him when something occurred which he has explicitly denied ever occurred.

Now, whether what was done on the Isthmus by the President—and there has been a full statement of the facts in regard to it—gives rise to a fair inference for argument that the troops of the United States or the military forces of the United States were used there in aid of a revolt, is a matter for us to discuss here. The Senator entertains one view of it; we entertain another. But the resolution assumes and asks the Senate to assume that our forces were used there in aid of a revolt or rebellion. That is not fair to the President or to the Senate. I can not vote for any such proposition, although I have no objection in the world to the resolution as I supposed it was.

Mr. GORMAN. I supposed the Senator had gone over the resolution very critically and that there had been eliminated all the objectionable features that were in the original resolution. The President has stated emphatically that his conduct and the conduct of the military force at Panama on this particular occasion was in exact conformity with what had preceded. That is controverted. The correspondence and the orders from 1846 to now have never been published in full. All I desired was that all that information since 1846, from the ratification of the treaty down to the present time, should be furnished to the Senate.

I think, upon reflection, that possibly the fourth clause is not absolutely necessary. I think that under the clauses preceding it we will get all that we desire. As the Senator from Wisconsin and the chairman of the committee are perfectly well aware, I do not desire to make any inquiry of the President of the United States which is not perfectly fair. We may afterwards debate his suggestions and criticize them as we please, but in treating with that great office I would not knowingly be the author of, nor would I have the Senate wittingly or unwittingly pass, a resolution which, according to fair judgment, contained the slightest reflection upon him in making the inquiry. Therefore I was careful to insert the usual provision in the very beginning of the resolution that the President be requested to furnish the information if it was not, in his judgment, incompatible with the

public interest. I think there may possibly be something which it would not be proper to communicate to the public.

But believing of him, as I believe of all Presidents, that he will deal with us with perfect fairness and give us all of the correspondence and orders, unless there be some great reason of state why he should not, I am perfectly willing to leave it to his judgment.

Mr. FAIRBANKS. Do not the first three paragraphs in the Senator's resolution cover all that is really necessary to be obtained, in his opinion?

Mr. GORMAN. I am rather inclined to think, I will say to the Senator from Indiana, that that is true; but in view of the discussion which has taken place and in view of the broad assertion of the President in his message that his recent action was in strict conformity with precedents in the past, I should like to have a full account of any interference on our part to suppress a revolt or a rebellion and the extent to which the military was used. We want full information. If it is considered by our friends on the other side of the Chamber, who, of course, are exceedingly anxious that nothing shall be done in this matter except what is perfectly proper, and I agree with that—

Mr. FAIRBANKS. No; if the Senator will allow me—

Mr. GORMAN. Certainly.

Mr. FAIRBANKS. The fourth section is not directed merely to information with respect to suppressing rebellion, but includes information with respect to aiding rebellion.

Mr. GORMAN. Yes.

Mr. FAIRBANKS. It assumes that our force has been so used.

Mr. GORMAN. There can not be any controversy that in the recent occurrence our forces were used.

Mr. FAIRBANKS. In aid of rebellion?

Mr. GORMAN. They were used to compel the troops of Colombia to quit that part of the territory.

Mr. FAIRBANKS. There is where there is a very serious dispute. We do not agree with the Senator's interpretation of what was done there.

Mr. GORMAN. No. Of course we disagree about it. The President would state the facts and get them in whatever form he desired to put them. But if there is serious objection to the phraseology of the fourth section, and believing that I will get all the information that is absolutely necessary in the consideration of this case, I have no objection to modifying it.

Mr. FORAKER. I was about to suggest a modification, but before suggesting it I wanted to inquire of the Senator whether or not I understood him to say that he is willing to allow the fourth paragraph to go out?

Mr. CULLOM. Yes.

Mr. BEVERIDGE. He said that.

Mr. FORAKER. If so, that is the best modification of it.

Mr. GORMAN. I will omit that part of it.

Mr. FORAKER. I made the inquiry of the Senator as to whether or not he had stated that he was willing that the entire fourth paragraph should go out.

Mr. GORMAN. I said, upon reflection, it seemed to me that possibly I would get all the information without it, and I will omit it.

Mr. FORAKER. I was about to suggest an amendment, if the Senator from Maryland was not willing to have the whole section go out.

Mr. GORMAN. I should be glad to have the Senator suggest the amendment.

Mr. FORAKER. The amendment I would propose is as follows. Has the Senator the resolution before him?

Mr. GORMAN. Yes.

Mr. FORAKER. I would strike out from line 20 the words "in aid of a"—

Mr. GORMAN. Yes.

Mr. FORAKER. And insert in lieu thereof "on account of any;" and then strike out all after the word "therein" in the twenty-first line; so that it would read:

Fourth. And also that he will inform the Senate of the dates when and circumstances under which the United States has employed military force in the internal affairs of New Granada or Colombia on account of any revolt or rebellion or disturbance of the peace therein.

That would call for information as to any kind of employment, without regard to whether it was in aid or in suppression of a revolt or rebellion, and would avoid all controversy among ourselves. It calls for the facts without assuming anything.

Mr. FAIRBANKS. If the Senator from Ohio will permit me, I understood the Senator from Maryland to say that upon further reflection he thinks the information desired by him can be obtained under the three preceding sections.

Mr. FORAKER. I think he is right about that, and I suggested that that was the best way to amend the resolution—by striking out the whole of article 4. But if article 4 is to remain,

I think it ought to be so amended as to assume nothing, but simply to call for the facts.

Mr. GORMAN. I will ask that the amendment of the Senator from Ohio be read.

The PRESIDENT pro tempore. The paragraph as proposed to be amended will be read.

The Secretary read as follows:

Fourth. And also that he will inform the Senate of the dates when and circumstances under which the United States has employed military force in the internal affairs of New Granada or Colombia on account of any revolt or rebellion or disturbance of the peace therein.

Mr. GORMAN. I will accept the amendment of the Senator from Ohio.

The PRESIDENT pro tempore. The Senator from Maryland modifies the resolution as it has been read.

Mr. MCCOMAS. I suggest to my colleague, although the amendment suggested by the Senator from Ohio has been very properly accepted, that the fourth inquiry is in substance the first inquiry, already in the resolution. It adds words, but it is really the same thing, because the first inquiry calls for information as to the use of military force in the internal affairs of New Granada or Colombia under this treaty. You simply add words by saying "in respect to a revolt." It does not add anything to the first proposition. My colleague's first proposition, to omit section 4, leaves the matter entirely comprehended in the three previous sections. The fourth adds nothing to it. However, I merely make this suggestion to my colleague.

Mr. GORMAN. My colleague will find that there is a very great difference. The first section simply calls for information as to use of our forces at the request of New Granada or Colombia, while the fourth asks whether the employment of force occurred without its request. The Senator will observe the difference if he will look at the resolution.

The PRESIDENT pro tempore. The question is on agreeing to the resolution of the Senator from Maryland as modified.

The resolution as modified was agreed to.

ADJOURNMENT TO MONDAY.

Mr. CULLOM. It has been suggested that the Senate adjourn over from this evening until Monday. I am entirely willing to agree to that suggestion if no Senator desires to speak to-morrow on this subject. I should like very much to have the Senate remain in session if any Senator is ready and willing to speak to-morrow on the subject, and I make the inquiry for the purpose of ascertaining what is the fact.

The PRESIDENT pro tempore. The resolution which has been under discussion for the last ten days has now been passed.

Mr. CULLOM. But the general subject will be before us.

Mr. SPOONER. There is no lack of supply.

The PRESIDENT pro tempore. No; the Chair is informed that there is not.

Mr. GORMAN. There are several other resolutions which relate to the same subject.

I will say to the Senator from Illinois that it was the general impression that we would adjourn over to-morrow, and I think from what information I have that there is nobody on this side of the Chamber who is ready to go on to-morrow. There are Senators who desire to speak the first of next week on some other branches of this subject. So I really think we would save time by adjourning over to-morrow.

Mr. CULLOM. As no Senator seems to be ready to speak to-morrow, I move that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

A bill (S. 9) granting an increase of pension to David E. Burbank;

A bill (S. 12) granting an increase of pension to Francis E. Chase;

A bill (S. 13) granting an increase of pension to William Clark;

A bill (S. 14) granting an increase of pension to Samuel M. Perry;

A bill (S. 99) granting an increase of pension to Joel C. Shepherd;

A bill (S. 182) granting an increase of pension to Charles F. Holt;

A bill (S. 190) granting an increase of pension to Charles H. Bell;

A bill (S. 451) granting an increase of pension to William T. Conant;

A bill (S. 452) granting an increase of pension to Albert W. Bullock;

A bill (S. 456) granting an increase of pension to Andrew J. Pierce;

A bill (S. 458) granting an increase of pension to Charles Beattie;

A bill (S. 471) granting an increase of pension to Silas Meserve;

A bill (S. 473) granting an increase of pension to Byron D. Babcock;

A bill (S. 478) granting an increase of pension to Olive J. Bailey;

A bill (S. 484) granting a pension to Nancy S. Marsh;

A bill (S. 547) granting an increase of pension to Irving W. Coombs;

A bill (S. 555) granting an increase of pension to Royal A. S. Kingsley;

A bill (S. 565) granting an increase of pension to James E. Barnard;

A bill (S. 578) granting an increase of pension to John Bullamore;

A bill (S. 586) granting a pension to Annie H. Zoll;

A bill (S. 587) granting an increase of pension to Anson P. Williamson;

A bill (S. 589) granting an increase of pension to George W. McMullen;

A bill (S. 744) granting an increase of pension to Stephen Gascoigne;

A bill (S. 745) granting a pension to John Swenson;

A bill (S. 798) granting an increase of pension to James A. Templeton;

A bill (S. 814) granting a pension to Mamie Thayer;

A bill (S. 821) granting an increase of pension to W. Neil Dennison;

A bill (S. 847) granting an increase of pension to John L. Beveridge;

A bill (S. 898) granting an increase of pension to John B. Carter;

A bill (S. 929) granting an increase of pension to Charles Stermer;

A bill (S. 930) granting an increase of pension to Ferdinand Wiedemann;

A bill (S. 937) granting an increase of pension to Rudolph Siebelist;

A bill (S. 959) granting an increase of pension to Andrew C. Ranard;

A bill (S. 1259) granting an increase of pension to John M. Stanyan;

A bill (S. 1429) granting an increase of pension to Elizabeth C. Paquin;

A bill (S. 1835) granting an increase of pension to Calvin Daws;

A bill (S. 1402) granting an increase of pension to William Paul;

A bill (S. 1437) granting an increase of pension to Clarence E. Bullard;

A bill (S. 1491) granting an increase of pension to James A. Hoover;

A bill (S. 1497) granting an increase of pension to Walter F. Chase;

A bill (S. 1498) granting an increase of pension to Winslow P. Eayrs;

A bill (S. 1559) granting an increase of pension to Marie A. Rask;

A bill (S. 1825) granting a pension to Josephine L. Webber;

A bill (S. 1826) granting an increase of pension to Mary E. Cutts;

A bill (S. 1827) granting an increase of pension to Harris A. P. Lewis; and

A bill (S. 1938) granting an increase of pension to Aldridge Patterson.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. 32) to fill the vacancies in the Board of Regents of the Smithsonian Institution.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until Monday, January 25, 1904, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 22, 1904.

COLLECTOR OF CUSTOMS.

Luke B. Colbert, of Massachusetts, to be collector of customs for the district of Marblehead, in the State of Massachusetts, to

succeed Stuart F. McClearn, whose term of office will expire by limitation April 1, 1904.

RECEIVER OF PUBLIC MONEYS.

Miss Martha C. Brown, of Colorado, to be receiver of public moneys at Gunnison, Colo., her term having expired April 2, 1902. (Reappointment.)

PROMOTIONS IN THE NAVY.

Pay Inspector Charles W. Littlefield to be a pay director in the Navy from the 27th day of December, 1903, vice Pay Director Theodore S. Thompson, retired.

Paymaster Samuel L. Heap to be a pay inspector in the Navy from the 27th day of December, 1903, vice Pay Inspector Charles W. Littlefield, promoted.

P. A. Paymaster Ray Spear to be a paymaster in the Navy from the 4th day of November, 1903, vice Paymaster John C. Sullivan, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 22, 1904.

CONSUL-GENERAL.

Fleming D. Cheshire, of New York, to be consul-general of the United States at Mukden, China.

CONSULS.

James W. Davidson, of Minnesota, to be consul of the United States at Antung, China.

Edwin V. Morgan, of New York, to be consul of the United States at Dalny, China.

PROMOTIONS IN THE NAVY.

Commander John A. Rodgers to be a captain in the Navy from the 27th day of December, 1903.

P. A. Paymaster George R. Venable to be a paymaster in the Navy from the 3d day of March, 1903.

Asst. Paymaster Ervin A. McMillan to be a passed assistant paymaster in the Navy from the 29th day of October, 1903.

Asst. Paymaster Eugene H. Tricou to be a passed assistant paymaster in the Navy from the 4th day of November, 1903.

Lieut. Col. Allan C. Kelton to be a colonel in the Marine Corps from the 27th day of December, 1903.

Maj. Randolph Dickins to be a lieutenant-colonel in the Marine Corps from the 27th day of December, 1903.

Capt. Charles G. Long to be a major in the Marine Corps from the 18th day of June, 1903.

First Lieut. Julius S. Turrill to be a captain in the Marine Corps from the 18th day of June, 1903.

PROMOTION IN THE MARINE-HOSPITAL SERVICE.

Asst. Surg. Dana E. Robinson, of Ohio, to be a passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States.

REGISTER OF THE LAND OFFICE.

W. H. Brown, of Grand Forks, N. Dak., to be register of the land office at Grand Forks, N. Dak.

POSTMASTERS.

IOWA.

Thomas J. Ochiltree to be postmaster at Morning Sun, in the county of Louisa and State of Iowa.

Charlie C. Warner to be postmaster at Central City, in the county of Linn and State of Iowa.

KANSAS.

Frank W. Carroll to be postmaster at Toronto, in the county of Woodson and State of Kansas.

Elon G. Dewey to be postmaster at Moline, in the county of Elk and State of Kansas.

Edward C. Hill to be postmaster at Burr Oak, in the county of Jewell and State of Kansas.

MAINE.

Jonathan F. Jefferds to be postmaster at Livermore Falls, in the county of Androscoggin and State of Maine.

MISSOURI.

William Beisner to be postmaster at Lockwood, in the county of Dade and State of Missouri.

Mills T. Chastain to be postmaster at Marshall, in the county of Saline and State of Missouri.

Frank A. Hardin to be postmaster at Cabool, in the county of Texas and State of Missouri.

Florence M. Low to be postmaster at Hamilton, in the county of Caldwell and State of Missouri.

NEBRASKA.

Henry E. Palmer to be postmaster at Omaha, in the county of Douglas and State of Nebraska.

PENNSYLVANIA.

Alonzo M. Frederick to be postmaster at New Kensington, in the county of Westmoreland and State of Pennsylvania.

Charles Graffin to be postmaster at Catasauqua, in the county of Lehigh and State of Pennsylvania.

John J. Mather to be postmaster at Benton, in the county of Columbia and State of Pennsylvania.

G. William Riegel to be postmaster at Bethlehem, in the county of Northampton and State of Pennsylvania.

Daniel W. Reynolds to be postmaster at Reedsville, in the county of Mifflin and State of Pennsylvania.

TEXAS.

Lida T. Robinson to be postmaster at West, in the county of McLennan and State of Texas.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 22, 1904.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

HORSES, CARRIAGES, ETC., AT GOVERNMENT EXPENSE.

Mr. HULL. Mr. Speaker, I have a privileged report which I desire to submit.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

House resolution No. 153.

Resolved, That the Secretary of War be, and he is hereby, requested to furnish this House, at his earliest convenience, a statement showing the number of horses, carriages, and automobiles maintained at Government expense for the officials of his Department, together with a statement showing the cost of said horses, carriages, automobiles, and harness, and the amount of wages paid to men acting as coachmen, footmen, and chauffeurs, whether carried on the rolls as such or in some other classification; also the list of officials entitled to the use of said carriages.

Mr. HULL. There is an amendment, Mr. Speaker.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by adding after the word "carriage," in line 10, "and for what purposes such vehicles are used."

Mr. TAWNEY. Mr. Speaker—

Mr. HULL. I suppose, Mr. Speaker, the question will be first on the amendment reported from the committee, and then I have no objection to the gentleman from Minnesota offering an amendment, if he so desires.

The amendment was agreed to.

Mr. TAWNEY. I move, Mr. Speaker, that the resolution be so amended as to give also the dates of the purchase of these various vehicles. At the end of the committee amendment add "and the dates of the purchase of such vehicles."

The SPEAKER. The Clerk will report the amendment of the gentleman from Minnesota.

The Clerk read as follows:

Add after the word "used," "also the dates of the purchase of such vehicles."

The amendment was agreed to.

The question was taken on the adoption of the resolution, and the resolution was agreed to.

On motion of Mr. HULL, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

LEAVE TO EXTEND REMARKS.

Mr. HULL. I want to ask unanimous consent, Mr. Speaker, that all gentlemen who addressed the House yesterday on the army appropriation bill may have five calendar days to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Iowa asks unanimous consent that all who addressed the House yesterday on the army appropriation bill may have five calendar days in which to print. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. HULL. Now, Mr. Speaker, I would like to give notice to the House that to-morrow, immediately after the reading of the Journal, I will move to go into the Committee of the Whole House on the state of the Union for the further consideration of the army appropriation bill.